

reasonable by identifying an amount beyond which the wireless surcharge could not be approved. This amendment ensures that customers will have a process for review and approval of the surcharge before it is imposed.

Response: Agree in part.

Section PSC 173.10(1)(b) has been amended to clarify that the amount of the surcharge will be set based upon all grants approved, including supplemental grants approved prior to the start of the surcharge period.

As indicated above, the proposal to cap the overall amount of the surcharge is contrary to the statutory process adopted by the legislature. See response to Cingular Wireless, comment 8. The rule has been revised at s. PSC 173.09(2) to ensure that any interested party may comment on pending grant applications that have not been filed confidentially.

The rule permits a grant applicant whose application has been disapproved in whole, or in part, to resubmit its application. Section PSC 173.09(9). The rule has also been revised at s. PSC 173.09(2) to clarify that the Commission will set the surcharge by order, and that interested parties have the standard opportunity to request reopening and reconsideration of the agency's order. This final review permits a wireless provider to object to the amount of the surcharge if it believes the surcharge is excessive.

10. Comment:

The Commission should amend s. PSC 173.10(2)(c) to require that the surcharge to be remitted to the Commission within 30 days of the end of the month in which the surcharge was collected, rather than within 20 days. This amendment should also clarify that a wireless provider may include reasonable administrative costs in its grant application under s. PSC 173.06.

Response: Agree.

The recommended changes have been made in ss. PSC 173.06(2) and 173.10(2)(c).

11. Comment:

The Commission should delete s. PSC 173.10(2)(d). This deletion would ensure consistency with the statute. As proposed, s. PSC 173.10(2)(d) conflicts with s. 146.70(3m)(f)4., Stats.

Response: Agree.

The recommended change has been made in s. PSC 173.10(2)(d).

12. Comment:

The Commission should amend s. PSC 173.11(4)(a) to read, "A ~~sworn~~-paid invoice to document the actual cost of any approved purchase from a vendor or supplier." This amendment deletes the requirement that a paid invoice be sworn. Requiring a sworn statement for paid invoices is not necessary, especially when other documents require no similar testament.

Response: Agree.

The recommended change has been made in s. PSC 173.11(4)(a).

13. Comment:

The Commission should amend s. PSC 173.11(6)(d) to clarify that only counties may apply for a supplemental grant.

Response: Agree.

The recommended change has been made in s. PSC 173.11(6)(d).

14. Comment:

The Commission should amend s. PSC 173.11(6)(e) to read, "The commission may decrease the wireless surcharge at any time. The commission may increase the wireless surcharge, effective as of the 13th and 25th month of the surcharge period, after completion of the second-year and third-year review, except that the increased amount shall not exceed 75 cents per month per telephone number." This amendment ensures consistency between s. PSC 173.10(1)(b), as proposed by US Cellular, and this subsection.

Response: Disagree.

This proposed change is contrary to the statute for the reasons discussed above.

15. Comment:

The Commission should amend s. PSC 173.11(7) to read, "... The commission shall withhold payment of this residual money until the wireless provider agrees either (a) to credit its current customer accounts the full amount of the residual payment or (b) to apply the full amount of the residual payment to Wisconsin E911 costs incurred, but not previously reimbursed by the wireless 911 fund. If a wireless provider does not agree, then that wireless provider's distribution amount shall be proportionately distributed to those wireless providers that have agreed...." This amendment provides an option to wireless providers regarding treatment of residual money to ensure that unreimbursed E911 costs are paid if residual money is available. This suggestion merely creates an option, especially

in the circumstance where a customer credit process may be cost prohibitive in relation to the residual amount available.

Response: Disagree.

The purpose of this section is to return any residual funds to the subscribers that paid the surcharge. The wireless providers have an opportunity to recover their expenses in full at the outset of the program. To direct excess funds to wireless providers at the conclusion of the program would be contrary to the statutory scheme.

16. Comment:

The Commission should amend Section 2: Effective dates to read, “(1) This rule, except s. PSC 173.10(1)(b) and (2), shall take effect on the first day of the second month following publication in the Wisconsin administrative register.
(2) Section PSC 173.10(1)(b) and (2) shall take effect on the first day of the eleventh month following publication in the Wisconsin administrative register.”

This amendment makes clear the delayed effective date of s. PSC 173.10(1)(b) and (2).

Response: Agree.

The recommended change has been made in Section 2.

Verizon Wireless, LLC

1. Comment:

Section PSC 173.06 should provide for an annual cost true-up. The cost of compliance with state and federal rules will change over time. The true-up would support appropriate adjustments to the surcharge.

Response: Agree in part.

The Commission has scheduled a review of the program’s cost recovery at the end of the first and second years of the surcharge period. The Commission will use these scheduled reviews to adjust the wireless surcharge so as to prevent collecting funds in excess of the needs of the program.

However, the Commission will not use the second and third year reviews to increase the grant amounts due to individual grant applicants. Under s. PSC 173.11(5)(e), a grant applicant may not receive more than the lesser of the grant amount approved by the Commission at the outset or the actual cost of the equipment, service or facility. The Commission acknowledges that this restriction may cause a wireless provider to overestimate its costs in its grant application.

However, the rule follows the requirement of the statute at s. 146.70(3g)(d)2., Stats.

2. Comment:

Verizon Wireless agrees with s. PSC 173.06(5) that only expenditures necessary to comply with 47 CFR s. 20.18 should be reimbursed. However, Verizon Wireless recommends that if requested, a provider applicant should be permitted to provide for an attestation that it is compliant with these federal code provisions.

Response: Agree.

The recommended change has been made in s. PSC 173.06(5). This rule does not intend to create technical requirements for wireless providers in addition to those found in the federal rule. The intent of this provision is to ensure that the fund is not obligated to reimburse wireless providers for a 911 service that does not comply with the federal rule.

3. Comment:

The Commission should revise s. PSC 173.09(3)(a) to clarify what type of expenditures would be considered cost effective, efficient and reasonable, and therefore reimbursable.

Response: Disagree.

The rule mirrors the standard found in the statute at s. 146.70(3m)(d)1., Stats. The Commission will apply this standard to individual applications for grants from the fund.

4. Comment:

The Commission should amend s. PSC 173.09(5) to permit an applicant or other interested party to argue that the 50 percent presumption would unfairly and unreasonably burden the wireless ratepayers.

Response: Agree.

The recommended change has been made in ss. PSC 173.09(2) and 173.09(6). The rule provides that the Commission will issue a Public Notice when applications are filed. The notice will invite comment on the applications to the extent those applications are filed without confidential cover. Verizon Wireless will have that opportunity in the comment cycle following the notice to challenge the 50 percent presumption if it believes the presumption is unreasonably high for some applications.

5. Comment:

The Commission should provide for a reduction in the surcharge over time due to growth in the wireless customer base.

Response: Agree.

The rule, at s. PSC 173.11(6)(a), schedules a review of the surcharge at the end of the first and second year of the program. The surcharge will be decreased during those reviews if the fund is accumulating excess funds.

6. Comment:

Verizon Wireless objects to s. PSC 173.10(2)(d).

Response: Agree.

The recommended change has been made in s. PSC 173.10(2)(d).

7. Comment:

The Commission should delete the requirement in s. PSC 173.11(4)(a) that a local government or wireless provider must furnish a sworn paid invoice to document costs incurred and paid to vendors.

Response: Agree.

The recommended change has been made in s. PSC 173.11(4)(a).

8. Comment:

The Commission should clarify that s. PSC 173.11(5)(c)1. requires the wireless provider to complete installation of equipment and service on an answering point-specific basis, not on a state-wide basis, prior to receiving a grant disbursement from the wireless fund.

Response: Agree.

The recommended change has been made in s. PSC 173.11(5)(c)1.

VoiceStream PCS II Corp., VoiceStream Minneapolis, Inc., d/b/a T-Mobile

1. Comment:

T-Mobile recommends that s. PSC 173.06(3) allow the Commission to annually establish two separate surcharges: one surcharge for those wireless providers that seek cost recovery via the Wireless 911 Fund, and another, lower, surcharge for those wireless providers that are not seeking grants via the Wireless 911 Fund.

Response: Disagree.

This proposal would conflict with the statutory requirement for a uniform rate in s. 146.70(3m)(f)1., Stats.

2. Comment:

T-Mobile recommends that s. PSC 173.06(5) include additional detail and express language that states that the scope of any review of a wireless provider's market location accuracy be conducted according to the rules approved by the FCC.

Response: Agree.

The recommended change has been made in s. PSC 173.06(5).

3. Comment:

In some other states where a surcharge has been adopted for similar wireless 911 purposes, the admin rules have allowed a wireless provider to retain 1-3 percent of the surcharge to recover the administrative costs of collecting and remitting the surcharge.

Response: Agree.

The recommended changes have been made in ss. PSC 173.06(2) and 173.10(2)(c).

4. Comment:

T-Mobile recommends that the Commission clarify the term "radio equipment" in s. PSC 173.07(3)(a)1. to ensure that grants from the Wireless 911 Fund are not diverted to purposes other than wireless 911 service.

Response: Agree.

The recommended change has been made in s. PSC 173.07(3)(a)1.

5. Comment:

T-Mobile recommends that ss. PSC 173.10(2)(b)1. and 2. be stricken and replaced with the following:

(b) The wireless surcharge shall be calculated and applied on a monthly basis. The wireless surcharge shall be the same for each wireless telephone number, regardless of the serving wireless provider or whether the customer is billed on a recurring or purchases wireless prepaid services.

Response: Agree in part.

This provision has been amended as recommended by TracFone to provide an additional collection method for prepaid wireless services.

Walworth County

1. Comment:

Walworth County recommends that the Commission revise s. PSC 173.11(5)(d) to permit the fund to make payments to a local government even though the local government will not implement its enhanced wireless 911 system until after the reimbursement period expires.

Response: Disagree.

This program will expire after completion of the surcharge period, and the Commission's statutory authority over this program will cease. After the program expires, there will be no fund administrator or other assigned staff to supervise the use of grant funds. For this reason, it is essential that counties that have received money from the fund complete the installation and implement the wireless 911 service prior to the program's sunset.

Moreover, a delay in implementation of the wireless 911 service would be contrary to the intent of the legislation. One objective of Act 48 is to accelerate the deployment of the wireless 911 service by easing or eliminating the funding concerns associated with this program. Permitting some counties to postpone implementation of the wireless 911 service into the next decade is not desirable.

2. Comment:

Walworth County recommends that the Commission revise s. PSC 173.11(6)(b) to permit counties to request additional money from the fund during the second year and third year review.

Response: Disagree.

This proposed change would be inconsistent with the statutory scheme. The statute and rule require counties to project, at the outset of the program, what their costs will be over the three-year reimbursement period. The statute does not provide for changes in equipment or network provider during the course of the program. Thus, a county will identify at the outset which vendors it will purchase from, and what those costs will be. If a county subsequently decides that another vendor, equipment option or network provider would be preferable, the county will have to fund that change from its own resources. The wireless 911 fund will not be available in that circumstance.

3. Comment:

Walworth County recommends that the Commission revise s. PSC 173.11(7) to distribute excess funds at the end of the reimbursement period to counties whose applications were initially denied in part during the grant review process.

Response: Disagree.

The rule provides for a final review that will identify the amount of money collected through the surcharge that is in excess of the needs of the program. The rule provides that the excess funds will be returned to wireless subscribers in the form of a credit. The Commission simply seeks to return unneeded funds to the subscribers that put up the money in the first place. The Commission believes that accumulating and distributing excess funds to any third party at the end of the program would be a poor policy choice.

Wisconsin Alliance of Cities

1. Comment:

The proposed rule is unclear exactly how a local government emergency call center may apply for, and be the recipient of, a grant to help pay for the costs of equipment upgrades necessary to enable it to receive messages regarding wireless emergency 911 telephone calls from the wireless answering point. Relevant provisions are: ss. PSC 173.07(1), 173.07(3)(a)5., 173.07(4), and 173.09(4). The rule implies in some instances (e.g., ss. PSC 173.07(4) and 173.09(4)) that a local government emergency call center may receive a grant. However, in other places it expressly states that only the wireless answering point designated by the county may apply for, and be the recipient of, a grant from the wireless 911 fund (e.g., s. PSC 173.07(1)).

The final rule should clearly specify that a local government emergency call center may obtain reimbursement from the wireless 911 fund for the cost of any equipment upgrades that are necessary to enable the center to receive messages from the wireless answering point.

The final rule should also clearly specify what procedure a local government emergency call center must follow in order to obtain reimbursement.

Response: Agree in part.

The proposed rule has been changed to clarify that only a local government that is authorized by s. 146.70(3m)(c)1., Stats., may apply for a grant from the fund. See s. PSC 173.07(1). A municipal government requesting reimbursement of any of its expenses related to wireless 911 service must either demonstrate that it is eligible to apply under that statute, or work with the county government to incorporate its request into the county application. The proposed rule, at s. PSC

173.08(1), has been changed as well to clarify that only a county may apply for a supplemental grant.

2. Comment:

Proposed s. PSC 173.09(5) provides that if a grant application requests reimbursement for equipment and facilities that will be used to terminate both wireline and wireless 911 emergency telecommunications service, the PSC will presume that 50 percent of the total cost of equipment and facilities is directly associated with wireless 911 service and can be reimbursed from the fund.

We believe that a more realistic and accurate presumption would be that 60 percent to 70 percent of the total cost of equipment and facility upgrades is directly associated with wireless 911 service.

Response: Disagree.

See response to City of Milwaukee, comment 1.

3. Comment:

Proposed s. PSC 173.11(5)(d) provides that the Commission shall withhold payment of an approved grant to a local government if the local government does not implement the wireless 911 service in its jurisdiction before the end of the reimbursement period, and the local government must repay to the fund any money it already received from the fund. This is an unduly harsh provision especially if the wireless provider causes the delay in implementation. The rule should specify that the withholding of grant payments to the county-designated answering point does not apply if the delay in implementing the wireless 911 service is caused by the wireless provider.

Response: Disagree.

All activities paid for by the Wireless Fund must be completed before the statutory authority of the Wireless Fund expires. See response to Walworth County, comment 1.

4. Comment:

Proposed s. PSC 173.11(7) provides that at the conclusion of the reimbursement period, the Commission must distribute to wireless providers any funds collected, but not disbursed, or otherwise obligated. The provider must then credit its current customer accounts the full amount of the residual payment. Rather than refunding the wireless surcharge, we recommend the rule provide that any left over money in the wireless 911 fund be distributed to recipients of supplemental grants under s. PSC 173.08.

Response: Disagree.

See response to Walworth County, comment 3.

Wisconsin Department of Administration

1. Comment:

The Commission should add the following subsection as s. PSC 173.09(6)(a)4.:
“4. The Land Information Officer shall certify that sub. 1., 2. & 3. are met.” The Wisconsin Land Information Board recommends this amendment to ensure that the requirements in sub. 1, 2 & 3 under s. PSC 173.09(6)(a) are met.

Response: Disagree.

The statute requires the Commission to obtain the advice of the Land Information Board regarding pending applications for grants. The rule adheres to the statutory requirement on this point. The change the Land Information Board proposes would require correspondence from a second county official for each county application submitted. This is a substantial change from the process intended by the legislature in Act 48.

The Commission believes it would be preferable that a given county speak with one voice regarding a pending application. If a county land information officer has an objection or other recommendation regarding the county application, that concern should be directed to the county officials preparing the application. Of course, the Land Information Board is welcome to communicate with a county land information officer before submitting its opinion on a pending application if it wants. However, the Commission prefers not to add an additional layer of consultation when it reviews a grant application, and the Commission does not want to receive conflicting advice from county officers on whether a county's grant application should be approved.

Wisconsin Sheriffs and Deputy Sheriffs Association (WSDSA), the Wisconsin Police Chief Association (WPCA), the Wisconsin Association of Public-Safety Communications Officials (APCO), and the Wisconsin National Emergency Number Association (NENA)(joint comments)

1. Comment:

Secondary answering points requesting wireless 911 surcharge funding would need to be approved by the primary county answering point for consideration and incorporation into the county grant application. This will be problematic as localized politics will come into play, not the concern for the best interest of the public. We strongly support the funding of all secondary answering points electing to receive wireless 911 calls, even if a secondary answering point is not approved by the county designated answering point.

It will be a waste of resources if a secondary answering point is not allowed to receive 911 calls after previously purchasing mapping systems to provide location information.

Response: Agree in part.

The statute and rule permit the Commission to reimburse some expenses related the transfer of calls between primary and secondary answering points within a county. See s. 146.70(3m)(d)4m., Stats., and s. PSC 173.09(5). The Commission does not have sufficient information to predict how many secondary answering points will approved under this rule at this time.

2. Comment:

The Commission has drafted a rule that, if approved, will limit reimbursement of the terminal telephone equipment at the answering point to 50 percent. We understand the argument that Wisconsin's answering points would need telephone systems of some kind, in any case, but are confused when the wireless providers will be reimbursed for 100 percent of their wireless 911 related costs.

Response: Disagree.

See response to City of Milwaukee, comment 1.

3. Comment:

The costs of Computer-Aided Dispatch systems are solely attributable to wireless 911 services provided by the answering points, and it would be unfair to not reimburse them as such.

Response: Agree in part.

This is not a settled issue. The proposed rule does not address whether expenses related to computer-aided dispatch (CAD) equipment should be reimbursed. It appears that CAD equipment is ancillary to the completion of a 911 call, and therefore not included within the description of reimbursable equipment in s. 146.70(3m)(c)1.a., Stats., and s. PSC 173.07(3)(a)1. However, the Commission has been informed that some counties use CAD systems to transfer calls between PSAPs. This is a factor that the Commission will take into account if a county requests reimbursement of this type of expense in its application.

Wisconsin State Patrol

1. Comment:

The Wisconsin State Patrol recommends that the Commission revise ss. PSC 173.02(8) and 173.07(1) to permit the State Patrol to apply for a grant to upgrade the terminal equipment at its dispatch center.

Response: Disagree.

There is no authority in the statute for a state agency to request a grant from the Wireless Fund to reimburse its expenses for terminating a wireless 911 call.

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WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
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Terry C. Anderson
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Laura D. Rose
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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 04-026

AN ORDER to repeal and recreate chapter PSC 173, relating to establishing a wireless 911 fund to promote an emergency telephone number service for wireless subscribers.

Submitted by **PUBLIC SERVICE COMMISSION**

03-25-2004 RECEIVED BY LEGISLATIVE COUNCIL.

04-02-2004 REPORT SENT TO AGENCY.

RNS:DLL

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached

YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached

YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached

YES NO 4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached

YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached

YES NO 6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached

YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached

YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 04-26

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 2002.]

I. Statutory Authority

Section PSC 173.10 (2) (d) may conflict with s. 146.70 (3m) (f) 4., Stats. The two provisions are as follows:

146.70 (3m) (f) 4. The commission may bring an action to collect a surcharge that is not paid by a customer and the customer's wireless provider is not liable for the unpaid surcharge.

PSC 173.10 (2) (d) In the event that a customer tenders a partial payment of the monthly bill for wireless telecommunications service or other wireless service agreement, the serving wireless provider shall credit and remit to the commission the full amount of the wireless surcharge billed and due, irrespective of any contrary written directions from the customer, before applying the partial payment to any other outstanding charge for wireless telecommunications service.

The statute appears intended to ensure that a wireless provider does not lose revenue when a customer fails or refuses to pay the surcharge and is not required to collect the payment. The rule appears to ensure the opposite result. This is especially clear in the case that a customer explicitly refuses to pay the surcharge. The rule would have the wireless provider remit a portion of the payment it received for service to the Public Service Commission as the surcharge, and then either try to recover the difference to ensure full payment of the amount billed for service or forego the revenue. In the case that a customer makes a partial payment not related to refusal to pay the

surcharge; the wireless provider is also in the position of having to collect the amount related to the surcharge.

2. Form, Style and Placement in Administrative Code

a. The term "active prepaid wireless telephone" is used only once in the rule (in s. PSC 173.10 (2) (b) 2.). The definition should be omitted and, in the referenced section, the phrase "when the telephone becomes an active prepaid wireless telephone" should be replaced with a phrase regarding when the telephone acquires the attributes in the definition. Also, the definition includes three criteria: the telephone has been used or activated; a call has been completed; and the customer's card or account has been decremented. Are all of these criteria necessary, or can any one or two of them define the circumstances intended? It would appear that decrementing the card or account may be a sufficient criterion.

b. The definition of "application" is sufficiently obvious that it should be omitted.

c. In the definition of "fund," the reference to s. 25.17 (1) (yo), Stats., should be omitted. Section 25.98, Stats., creates the fund and s. 25.17 (1) (yo) places the fund under the management of the Investment Board.

d. Once defined, a term should be used consistently throughout a rule. Although this rule defines "fund" as the Wireless 911 Fund, it also makes reference to it by the full name.

e. The first sentence of the definition of "surcharge period" is duplicative of the section it references; it should be omitted or placed in a note. The remainder of the definition should more closely follow the form of the statutory definition: "...means the period beginning...and ending..."

f. The term "wireless 911 surcharge" is used only in the definition of the term and in the title of s. PSC 173.10; the rest of the rule uses the term "wireless surcharge." Only one term should be used throughout. Given the clear context, it could be reduced to just "surcharge," even in the section title, without losing clarity (though either of the other versions is fine, as well). Also, the surcharge is not merely authorized by s. 146.70 (3m) (f), Stats., it is *required*. The definition should reflect this.

g. Section PSC 173.05 should refer to contracts "under this subchapter" or, more precisely, "under s. PSC 173.03."

h. Section PSC 173.06 (2) and (3) restate language in the statutes. The second sentence of s. PSC 173.06 (2) however, omits the phrase "in this state" after "reimbursed by customers," while the first sentence of s. PSC 173.06 (3) omits the phrase "before or during the reimbursement period" after "in this state." These provisions were debated extensively in the Legislature, including specific discussion of the phrases in question. The rule should more closely conform to the statutes, especially on this point.

i. The term "Phase I or Phase II wireless 911 service," used in s. PSC 173.06 (4), should be defined. Also, in the first sentence, the second "the" should be deleted.

j. Section PSC 173.07 (1) appears to allow any local government to apply for a grant. This should be limited to a local government designated under s. 146.70 (3m) (c) 3. and 4., Stats.

k. Section 146.70 (3m) (e), Stats., requires that the rules establish supplemental grants “in an amount that provides an incentive for counties to submit joint applications.” Section PSC 173.08 allows local governments to apply for supplemental grants, but is silent regarding the amount of a grant that is allowable, and so fails to address the requirement that the grants be designed to serve as an incentive for joint programs.

l. In s. PSC 173.09 (4), the language beginning with “, related to” and ending with “providers,” duplicates s. PSC 173.07 (3) (a) 5. and so should be omitted.

m. In s. PSC 173.10 (1), the formula for calculating the surcharge should include recovery of the cost of supplemental grants. Even if the commission expects this amount to be zero, it should be acknowledged in the formula.

n. It appears that the delayed effective date in SECTION 2 (2) of the rule should apply only to s. PSC 173.10 (2). Presumably, the commission will need the authority granted in s. PSC 173.10 (1) to obtain information from wireless providers earlier.

4. Adequacy of References to Related Statutes, Rules and Forms

In s. PSC 173.06 (6), the phrase “the date specified in sub. (1)” should be replaced by “the first day of the third month beginning after the effective date of this section....[revisor inserts date]”, so that the actual date will be shown in sub. (6).

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Subchapter III relates to wireless services, and consistently uses the term “wireless” throughout the subchapter. In contrast, subch. II relates specifically to wireline 911 service. It would aid clarity to add the term “wireline” before “911 emergency telephone service” and in other appropriate places throughout this subchapter, as well.

b. In ss. PSC 173.03 (1) and 173.04 (4), the word “which” should be replaced with “that.”

Response to Report from Legislative Council**1. Statutory Authority**

Response: Agree The recommended change has been made in s. PSC 173.10(2)(d).

2. Form, Style and Placement in Administrative Code**a. Response:** Disagree

The Legislative Council Report recommended that, since the term “active prepaid wireless telephone” is used only once in the rule (in s. PSC 173.10(2)(b)2.), the Commission should omit the definition and amend the referenced section to include the definition of the term. The approach suggested by the Legislative Council would work just fine. However, the Commission has also agreed to modify 173.10(2)(b) to create an additional method that a prepaid wireless provider could use to collect the wireless surcharge. The proposed rule appears to read better if the definition of the term is included in the list of definitions (in s. PSC 173.02), while the later section sets forth the alternative collection methods.

The Legislative Council Report also noted that the definition of the term “active prepaid wireless telephone” contains three attributes. The Legislative Council questions whether all three attributes are necessary. The Commission agrees that, in most instances, the attributes are redundant. However, it is conceivable that a prepaid provider could deduct minutes or money from a prepaid account for something other than a telephone call (e.g., voice mail), or complete a telephone call for which the prepaid subscriber is not charged.

b. Response: Agree The recommended change has been made in s. PSC 173.02(2).

c. Response: Agree The recommended change has been made in s. PSC 173.02(7).

d. Response: Agree The recommended change has been made in ss. PSC 173.06(1), 173.07(10), 173.10(2)(c), 173.11(2), 173.11(3), 173.11(5)(f) and 173.11(7).

e. Response: Agree The recommended change has been made in s. PSC 173.02(11).

f. Response: Agree The recommended change has been made in ss. PSC 173.02(14) and 173.10(1).

- g. **Response:** Agree The recommended change has been made in s. PSC 173.05.
- h. **Response:** Agree The recommended change has been made in ss. PSC 173.06(2) and 173.06(3).
- i. **Response:** Agree The recommended change has been made in s. PSC 173.06(4).
- j. **Response:** Agree The recommended change has been made in s. PSC 173.07(1).
- k. **Response:** Agree The recommended change has been made in s. PSC 173.08(5).
- l. **Response:** Agree The recommended change has been made in s. PSC 173.09(4).
- m. **Response:** Agree The recommended change has been made in s. PSC 173.10(1)(b).
- n. **Response:** Agree The recommended change has been made in Section 2: Effective Dates.

4. Adequacy of References to Related Statutes, Rules and Forms

Response: Agree The recommended change has been made in s. PSC 173.06(6).

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. **Response:** Agree The recommended change has been made in ss. PSC 173.03(1), 173.03(2)(a), 173.03(2)(e), 173.03(2)(f), 173.03(2)(g), 173.03(2)(h), 173.04(1), 173.04(2) and 173.04(2)(c).
- b. **Response:** Agree The recommended change has been made in ss. PSC 173.03(1) and 173.04(4).

**LIST OF CHANGES MADE TO THE TEXT OF THE PROPOSED RULE
IN RESPONSE TO TESTIMONY AND COMMENTS RECEIVED**

Text Reference (as proposed in the Notice of Hearing)	Text Revision
1. s. PSC 173.02(2)	<p>(2) "Application" means a request for money in the form of a grant authorized under s. 146.70(3m)(b), (e) or (e), Stats. [and renumber the remaining subsections in s. PSC 173.02]</p> <p>Comment reference: Legislative Council, comment 2.b</p>
2. s. PSC 173.02(7)	<p>(67) "Fund" means the wireless 911 fund established by ss. 25.17(1)(y) and 25.98, Stats.</p> <p>Comment reference: Legislative Council, comment 2.c</p>
3. [new] s. PSC 173.02(8)	<p><u>(8) "Phase I wireless 911 service" means the wireless telecommunications service described in 47 CFR 20.18(d). [and renumber the remaining subsections in s. PSC 173.02]</u></p> <p>Comment reference: Legislative Council, comment 2.i</p>
4. [new] s. PSC 173.02(9)	<p><u>(9) "Phase II wireless 911 service" means the wireless telecommunications service described in 47 CFR 20.18(e)-(i). [and renumber the remaining subsections in s. PSC 173.02]</u></p> <p>Comment reference: Legislative Council, comment 2.i</p>

<p>5. s. PSC 173.02(11)</p>	<p>(1244) "Surcharge period" means the 3-year period beginning during which wireless providers shall bill and collect the wireless surcharge authorized by s. 146.70(3m)(f), Stats. The surcharge period shall commence on the first day of the second month beginning after the effective date of s. PSC 173.10(1)(b) and (2) ...[revisor inserts date] and ending on the last day of the thirty-fifth month beginning after the month in which the surcharge period commences ...[revisor inserts date].</p> <p>Comment references: Legislative Council, comment 2.e Legislative Council, comment 2.n US Cellular, comment 1</p>
<p>6. s. PSC 173.02(14)</p>	<p>(1514) "Wireless 911 surcharge" or "wireless surcharge" means the monthly surcharge required authorized by s. 146.70(3m)(f), Stats.</p> <p>Comment reference: Legislative Council, comment 2.f</p>
<p>7. s. PSC 173.03(1)</p>	<p>PSC 173.03 Submission of telecommunications emergency services contracts. (1) A telecommunications provider that enters into a contract with a county for the provision of <u>wireline</u> 911 emergency telecommunications service shall within 20 days submit the contract for commission review.</p> <p>Comment references: Legislative Council, comment 5.a Legislative Council, comment 5.b SBC, comment 3</p>
<p>8. s. PSC 173.03(2)(a)</p>	<p>(a) A copy of the county ordinance adopting the plan for a <u>wireline</u> 911 emergency telecommunications system.</p> <p>Comment reference: Legislative Council, comment 5.a</p>

<p>9. s. PSC 173.03(2)(e)</p>	<p>(e) A statement that all telecommunications service users in the county have access to a <u>wireline 911</u> system. If such a statement cannot be made with regard to a segment of the county's service users, the telecommunications utility shall provide information indicating that the local exchange carrier serving those service users is not capable of providing the <u>wireline 911</u> system on a reasonable economic basis on the effective date of the contract.</p> <p>Comment reference: Legislative Council, comment 5.a</p>
<p>10. s. PSC 173.03(2)(f)</p>	<p>(f) A list of exchanges in the county with customers served by a <u>wireline 911</u> system outside the county, which identifies the provider of the <u>wireline 911</u> service.</p> <p>Comment reference: Legislative Council, comment 5.a</p>
<p>11. s. PSC 173.03(2)(g)</p>	<p>(g) A description of access to the <u>wireline 911</u> system by telecommunications devices for the communicatively impaired.</p> <p>Comment reference: Legislative Council, comment 5.a</p>
<p>12. s. PSC 173.03(2)(h)</p>	<p>(h) Cost support for and complete itemization of the installation and monthly charges for automatic number identification, automatic location identification and all trunking service components for both the primary telecommunications utility under the contract and the participating local exchange carriers. Cost support may be in the form of tariff reference if the rates and charges for <u>wireline 911</u> service are those in the utility's tariffs.</p> <p>Comment reference: Legislative Council, comment 5.a</p>

<p>13. [new] s. PSC 173.03(3)</p>	<p>(3) The commission shall withhold from public inspection any wireline 911 emergency telecommunications service contract, or any other information received under this subchapter, that would aid a competitor of one or more of the participating telecommunications providers.</p> <p>Comment reference: SBC, comment 2</p>
<p>14. s. PSC 173.04(1)</p>	<p>PSC 173.04 Commission review. (1) Upon receipt of a contract for wireline 911 emergency telecommunications service, the commission shall issue a notice of investigation in accordance with s. PSC 2.09.</p> <p>Comment reference: Legislative Council, comment 5.a</p>
<p>15. s. PSC 173.04(2)</p>	<p>(2) Within 60 days of receipt of a contract for the provision of wireline 911 emergency telecommunications service, the commission may disapprove the contract if it finds any of the following:</p> <p>Comment reference: Legislative Council, comment 5.a</p>
<p>16. s. PSC 173.04(2)(c)</p>	<p>(c) The contract does not comply with the utility's tariff specifying the rates and charges or terms and conditions for the offering of wireline 911 emergency telecommunications service.</p> <p>Comment reference: Legislative Council, comment 5.a</p>
<p>17. s. PSC 173.04(4)</p>	<p>(4) Any person may request disapproval of the contract within 20 days of mailing of notice by the commission, specifying reasons for the disapproval in writing. The person may request a hearing by specifying factual issues which that are in dispute.</p> <p>Comment reference: Legislative Council, comment 5.b</p>

<p>18. s. PSC 173.05</p>	<p>PSC 173.05 Assessment. A telecommunications utility provider submitting a contract under this chapter. PSC 173.03 shall pay the commission's direct costs of contract approval, unless the utility has an agreement with participating utility telecommunications providers to share this cost.</p> <p>Comment references: Legislative Council, comment 2.g SBC, comment 3</p>
<p>19. s. PSC 173.06(1)</p>	<p>(1) A wireless provider may apply to receive a grant from the wireless-911-fund as reimbursement for costs estimated in sub. (2). Except as provided in sub. (6), the wireless provider shall submit an application to the commission no later than the first day of the third month beginning after the effective date of this section ... [revisor inserts date].</p> <p>Comment reference: Legislative Council, comment 2.d</p>

<p>20. s. PSC 173.06(2)</p>	<p>(2) An application under sub. (1) shall contain an itemized estimate, and supporting documentation, of the costs that the applicant has incurred, or will incur, during the reimbursement period to upgrade, purchase, lease, program, install, test, operate, or maintain all data, hardware, and software necessary to comply with the federal wireless orders in this state.</p> <p>(a) This estimate may not include any costs for the implementation of wireless 911 emergency service in this state for which the wireless provider has been reimbursed by customers in this state before or during the reimbursement period, <u>apart from the wireless surcharge established pursuant to s. PSC 173.10. This estimate may include reasonable administrative costs associated with the billing and collection of the wireless surcharge.</u></p> <p>(b) <u>If a wireless provider does request reimbursement of its costs to provide Phase II wireless 911 service in this state in its application under sub. (1), the provider may elect not to submit an estimate of its Phase II costs.</u></p> <p>Comment references: Legislative Council, comment 2.h Sprint Spectrum, comment 1 T-Mobile, comment 3 US Cellular, comment 2 US Cellular, comment 10</p>
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<p>21. s. PSC 173.06(3)</p>	<p>(3) An application under sub. (1) shall declare the amount of money the wireless provider has recovered or will recover from customers in this state before or during the reimbursement period, apart from the wireless surcharge established pursuant to s. PSC 173.10, as reimbursement for costs the wireless provider has incurred or will incur to implement wireless emergency 911 service in this state.</p> <p>(a) The declaration shall include all money recovered from customers with a recurring billing statement or pre-paid service agreement using a separate line item charge identified as related to or associated with the implementation, installation, maintenance, or operation of wireless 911 emergency service network facilities or service features in this state, regardless of whether the amount collected was actually used for that purpose.</p> <p>(b) If a wireless provider does not request reimbursement of its costs to provide Phase II wireless 911 service in this state in its application under sub. (1), the provider may elect not to make the declaration required under this subsection with respect to its Phase II service.</p> <p>Comment references: Legislative Council, comment 2.h Sprint Spectrum, comment 1 US Cellular, comment 3</p>
<p>22. s. PSC 173.06(4)</p>	<p>(4) An application under sub. (1) shall contain a description or explanation of the geographic area in which the wireless provider will provide wireless 911 service in this state. The application shall disclose which local governments within the geographic service area the wireless provider has described have requested from the provider either Phase I or Phase II wireless 911 service in accordance with 47 CFR 20.18(j).</p> <p>Comment reference: Legislative Council, comment 2.i</p>

<p>23. s. PSC 173.06(5)</p>	<p>(5) A wireless provider may not apply for a grant under this section if its provision of 911 service does not conform to applicable requirements set forth at 47 CFR 20.18. A wireless provider's eligibility for a grant under this section shall not be conditioned upon compliance with a location accuracy standard different from that established in 47 CFR 20.18 and applicable federal wireless orders. An application under sub. (1) shall contain an attestation that the applicant's service conforms to the requirements of 47 CFR 20.18, and shall disclose any waivers or other applicable orders of the federal communications commission that postpone the date on which the applicant is required to meet the service standards established in 47 CFR 20.18.</p> <p>Comment references: T-Mobile, comment 2 Verizon Wireless, comment 2</p>
<p>24. s. PSC 173.06(6)</p>	<p>(6) A wireless provider that does not provide service to customers in this state before September 3, 2003, may make an application under this section after the date specified in sub. (1)-first day of the third month beginning after the effective date of this section[revisor inserts date] under s. PSC 173.11(6)(b).</p> <p>Comment reference: Legislative Council, comment 4</p>

<p>25. s. PSC 173.07(1)</p>	<p>(1) A local government, that is authorized by s. 146.70(3m)(c)1., Stats., to do so, that operates a wireless public safety answering point, or local governments that jointly operate a wireless public safety answering point may apply to receive a grant from the wireless 911 fund as reimbursement for costs that have been the applicant has directly and primarily incurred, or will be directly and primarily incurred, or both, for leasing, purchasing, operating, or maintaining the wireless public safety answering point, as well as telecommunications network costs assigned to the local government for recovery under 47 CFR 20.18(j) and applicable federal wireless orders. The local government shall submit an application to the commission no later than the first day of the third month beginning after the effective date of this section ... [revisor inserts date].</p> <p>Comment references: Legislative Council, comment 2.d Legislative Council, comment 2.j Cingular Wireless, comment 2 US Cellular, comment 4</p>
<p>26. s. PSC 173.07(3)(a)1.</p>	<p>1. Necessary network equipment, computer hardware and software, database equipment, and radio and telephone equipment, that are located within the wireless public safety answering point.</p> <p>a. <u>The estimate of costs may include radio equipment if that equipment is necessary to complete a wireless 911 call to the designated public safety answering point, including microwave telecommunications equipment provided by a telecommunications provider and radio equipment used to transfer calls between answering points to the extent approved under s. PSC 173.09(4).</u></p> <p>b. <u>The estimate of costs may not include radio equipment that is used for a purpose other than completing a wireless 911 call to the designated public safety answering point, including radio equipment providing communications between a dispatcher and an emergency vehicle and radio equipment providing an inter-agency or inter-government communications link for purposes other than that approved under s. PSC 173.09(4).</u></p> <p>Comment references: Cingular Wireless, comment 3</p>

<p>27. s. PSC 173.07(3)(a)2.</p>	<p>2. <u>Training operators of a wireless public safety answering point. The estimate of training costs may not include any portion of the salary and benefits paid to an individual employed by a county or municipal government in any of the job descriptions associated with the operation of the designated public safety answering point.</u></p> <p>Comment references: Brown County, comment 2 Cingular Wireless, comment 3 City of Milwaukee, comment 3</p>
<p>28. s. PSC 173.08(1)</p>	<p>(1) <u>A county, or a local government in a county, that jointly operates a wireless public safety answering point with another county, or local government in another county; may apply for a supplemental grant under this section if:</u></p> <p>(a) <u>The county, or a local government within the county, jointly operates a wireless public safety answering point with another county, or local government in another county.</u></p> <p>(b) <u>The county has previously or concurrently applied it is applying for a grant under s. PSC 173.07.</u></p> <p>(c) <u>Each county in which the participating local governments are located has adopted a resolution pursuant to s. 146.70(3m)(c)3., Stats., designating the same wireless public safety answering point, and that answering point is located in the county submitting the application for a supplemental grant.</u></p> <p>(d) <u>The designated public safety answering point provides a single point of termination for telephone calls directed to 911 that originate from wireless telephones located within the combined geographic jurisdiction of the participating local governments.</u></p> <p>(e) <u>For purposes of this section, a "local government in another county" means a city, village or town located in a county other than the county applying for a supplemental grant that operates a public safety answering point, as defined in s. 146.70(1)(gm), Stats., pursuant to a countywide 911 system plan adopted by ordinance in accordance with s. 146.70(3)(b)1., Stats.</u></p> <p>Comment references: Brown County, comment 3 US Cellular, comment 5</p>

<p>29. s. PSC 173.08(2)(a)</p>	<p>(2) (a) To receive a supplemental grant during all three years of the reimbursement period, a county, that is eligible to apply for a supplemental grant under sub. (1) or a local government in a county, that jointly operates a wireless public safety answering point with another county, or local government in another county, shall submit its application to the commission with its application under s. PSC 173.07, no later than the first day of the third month beginning after the effective date of this section ...[revisor inserts date].</p> <p>Comment reference: US Cellular, comment 5</p>
<p>30. s. PSC 173.08(2)(b)</p>	<p>(b) To receive a supplemental grant during the second and third year of the reimbursement period, a county, that is eligible to apply for a supplemental grant under sub. (1), or a local government in a county, that jointly operates a wireless public safety answering point with another county, or local government in another county, and that did not submit an application for a supplemental grant with its grant application under s. PSC 173.07, shall submit its application during the commission's second year review under s. PSC 173.11(6) by the date the commission establishes in a public notice.</p> <p>Comment reference: US Cellular, comment 5</p>
<p>31. s. PSC 173.08(2)(c)</p>	<p>(c) To receive a supplemental grant during the third year of the reimbursement period, a county, that is eligible to apply for a supplemental grant under sub. (1), or a local government in a county, that jointly operates a wireless public safety answering point with another county, or local government in another county, and that did not submit an application for a supplemental grant with its grant application under s. PSC 173.07 or during the commission's second year review, shall submit its application during the commission's third year review under s. PSC 173.11(6) by the date the commission establishes in a public notice.</p> <p>Comment reference: US Cellular, comment 5</p>

<p>32. s. PSC 173.08(3)</p>	<p>(3) An application for a supplemental grant under this section is in addition to the application for grants that the local government county may make under s. PSC 173.07.</p> <p>Comment reference: US Cellular, comment 5</p>
<p>33. [new] s. PSC 173.08(5)</p>	<p>(5) An individual supplemental grant shall not exceed an amount equal to 50% of the amount awarded to the applicant county as a grant under ss. PSC 173.07(1) and PSC 173.09(3). The total of the amount awarded as supplemental grants shall not exceed 10% of the 911 wireless fund.</p> <p>Comment references: Legislative Council, comment 2.k US Cellular, comment 8</p>
<p>34. s. PSC 173.09(1)</p>	<p>PSC 173.09 Review and approval of grant and supplemental grant applications. (1) The commission shall provide reasonable notice to the clerk of each county, each wireless provider that has requested notice, and any other interested party, of the date on which an application under this subchapter is due. If an application under ss. PSC 173.06 or 173.07 is submitted after the deadline, the commission shall take action under sub. (7).</p> <p>Comment reference: US Cellular, comment 6</p>
<p>35. s. PSC 173.09(2)</p>	<p>(2) After receipt of an application requesting a grant under this subchapter, the commission shall issue a notice of investigation in accordance with s. PSC 2.09 if it has not already done so. <u>The commission shall provide an opportunity for interested parties to comment on whether pending grant applications should be approved, subject to the limitation on access to information in s. PSC 173.12.</u></p> <p>Comment references: Cingular Wireless, comment 6 Commission clarification US Cellular, comment 9 Verizon Wireless, comment 4</p>

<p>36. s. PSC 173.09(3)</p>	<p>(3) The commission shall approve an application under ss. PSC 173.06 or 173.07 if the commission determines all of the following:</p> <p>Comment reference: Commission clarification</p>
<p>37. [new] s. PSC 173.09(4)</p>	<p>(4) The commission shall approve an application requesting a supplemental grant under s. PSC 173.08 if the commission determines all of the following:</p> <p>(a) <u>The supplemental grant application is submitted by a county and complies with the requirements of this chapter.</u></p> <p>(b) <u>The amount requested is reasonable.</u> [and renumber the remaining subsections in s. PSC 173.09]</p> <p>Comment reference: US Cellular, comment 7</p>
<p>38. s. PSC 173.09(4)</p>	<p>(5) <u>Notwithstanding sub. (3), the commission may only approve an application for a grant to reimburse a local government for costs under s. PSC 173.07(3)(a)5. related to relaying messages regarding wireless-emergency 911 telephone calls via data communications from the wireless public safety answering point to local government-emergency-call centers in operation before June 1, 2003, that dispatch the appropriate-emergency-service providers; if the commission first determines that reimbursement of such costs is in the public interest and will promote public health and safety. In making this determination, the Commission shall give preference to applications that propose to use existing equipment, and request reimbursement for equipment already purchased and costs already incurred.</u></p> <p>Comment references: Legislative Council, comment 2.1 Cingular Wireless, comment 5</p>

<p>39. s. PSC 173.09(5)</p>	<p>(65) If an application from a local government requests reimbursement under s. PSC 173.07(3)(a) for equipment and facilities that will also be used to terminate wireline 911 emergency telecommunications service, the commission shall presume that one half of the total cost of equipment and facilities is directly associated with wireless 911 service and can be reimbursed from the fund.</p> <p>(a) An applicant may rebut this 50% presumption by providing sufficient evidence to demonstrate that the presumed ratio is unfair and would unreasonably burden local taxpayers with the recovery of costs directly and solely attributable to the addition of enhanced wireless 911 telephone service.</p> <p>(b) A wireless provider or other interested party may also submit comments in response to the notice required under sub. (2) challenging this presumption by providing sufficient evidence to demonstrate that the presumed ratio is unfair and would unreasonably burden wireless telephone subscribers with the recovery of costs that have not been, or will not be, incurred for the purpose of promoting a cost-effective and efficient statewide system for responding to wireless emergency 911 telephone calls.</p> <p>Comment references: Cingular Wireless, comment 6 Verizon Wireless, comment 4</p>
<p>40. s. PSC 173.09(8)</p>	<p>(98) If the commission does not approve an application under sub. (3) or sub. (4), the commission shall provide the applicant with the commission's reasons and give the applicant an opportunity to resubmit the application. If the commission approves a part of the application, the commission shall provide the applicant with the commission's reasons for disapproving part of the application and give the applicant an opportunity to resubmit the portion of the application previously disapproved.</p> <p>Comment reference: US Cellular, comment 6</p>

<p>41. s. PSC 173.09(9)</p>	<p><u>(109) For any application under this subchapter pending before the commission, the wireless provider or a local government that submitted the application may revise the application before the commission approves or disapproves it without incurring a penalty under sub. (87). For any application approved by the commission under sub. (3) or sub. (4), the wireless provider or a local government that submitted the application may revise the application before the commission makes a disbursement to that wireless provider or local government.</u></p> <p>Comment references: Cingular Wireless, comment 7 US Cellular, comment 6</p>
<p>42. s. PSC 173.10(1)(a)</p>	<p>PSC 173.10 Wireless 911 surcharge. (1) CALCULATION. (a) Upon the request of the commission, each wireless provider shall file with the commission a report setting forth the number of its wireless telephone numbers with billing addresses in this state that are billed on a recurring basis and the number of its wireless telephone numbers subject to a pre-paid service agreement with a customer with an address in this state or sold within this state, as of the date specified in the commission request.</p> <p>Comment reference: Legislative Council, comment 2.f</p>
<p>43. s. PSC 173.10(1)(b)</p>	<p>(b) The commission shall determine the amount of the wireless surcharge by dividing the sum of the total amount of money requested from all grant and supplemental grant applications approved under s. PSC 173.09 and the reasonable administration costs under 173.11(2) by 36, and then dividing that result by the total number of telephone numbers served by wireless providers and reported under sub. (a).</p> <p>Comment references: Legislative Council, comment 2.m US Cellular, comment 9</p>

<p>44. [new] s. PSC 173.10(2)</p>	<p><u>(2) ORDER. The commission shall set the amount of the wireless surcharge by an order pursuant to s. 227.47(1), Stats. An interested party may petition to reopen the proceeding and amend the surcharge order under s. 196.39(2), Stats., and s. PSC 2.28. [and renumber the remaining subsections in s. PSC 173.10]</u></p> <p>Comment reference: US Cellular, comment 9</p>
<p>45. s. PSC 173.10(2)(b)2.</p>	<p>2. For a customer with prepaid wireless telephone service, the wireless provider shall charge to that customer's prepaid account using one of the following methods:</p> <p>a. <u>The provider shall charge the prepaid account the amount of the monthly surcharge when the telephone becomes an active prepaid wireless telephone, provided the balance of the prepaid account is greater than or equal to the monthly wireless surcharge.</u></p> <p>b. <u>The provider shall divide the total prepaid wireless telephone revenue earned and received in the state a calendar month during the surcharge period by fifty dollars (\$50), and multiply the quotient by the monthly wireless surcharge.</u></p> <p>Comment reference: TracFone Wireless, comment 1</p>
<p>46. s. PSC 173.10(2)(c)</p>	<p><u>(c) Each wireless provider shall pay the full amount of the surcharge collected to the commission within 2030 days of the end of the month in which the surcharge was collected for deposit in the wireless-911 fund. A wireless provider may not withhold any portion of the surcharge it collects as reimbursement for the cost of billing and collecting the surcharge, or for any other purpose. A wireless provider may include reasonable administrative costs as part of its grant application under s. PSC 173.06.</u></p> <p>Comment references: Legislative Council, comment 2.d Cingular Wireless, comment 10 Sprint Spectrum, comment 2 US Cellular, comment 10 T-Mobile, comment 3</p>

<p>47. s. PSC 173.10(2)(d)</p>	<p>(d) In the event that a customer tenders a partial payment of the monthly bill for wireless telecommunications service or other wireless service agreement, the serving wireless provider shall credit and remit to the commission the full amount of the wireless surcharge billed and due, irrespective of any contrary written directions from the customer, before applying the partial payment to any other outstanding charge for wireless telecommunications service.</p> <p>Comment references: Legislative Council, comment 1 Cingular Wireless, comment 9 US Cellular, comment 11 Verizon Wireless, comment 6</p>
<p>48. s. PSC 173.11(2)</p>	<p>(2) ADMINISTRATIVE COSTS. The commission may recover from the wireless-911 fund its reasonable costs related to the administration of the fund.</p> <p>Comment reference: Legislative Council, comment 2.d</p>
<p>49. s. PSC 173.11(3)</p>	<p>(3) DEPOSIT OF FUNDS. The commission shall ensure that the amounts billed and collected through the wireless surcharge and remitted to the commission are deposited in the wireless-911 fund. All amounts deposited in the fund, including moneys earned as interest, shall remain in the fund until disbursed as provided in this chapter.</p> <p>Comment reference: Legislative Council, comment 2.d</p>
<p>50. s. PSC 173.11(4)(a)</p>	<p>(a) A sworn-paid invoice to document the actual cost of any approved purchase from a vendor or supplier.</p> <p>Comment references: Cingular Wireless, comment 11 US Cellular, comment 12 Verizon Wireless, comment 7</p>

<p>51. s. PSC 173.11(5)(c)1.</p>	<p>(c)1. The commission shall begin payment of approved grant amounts to wireless providers when the wireless provider has installed all necessary equipment, upgrades and interconnecting telecommunications circuits to provide service to a designated public safety answering point. <u>If a wireless provider provides wireless 911 service to more than one answering point in the state, the Commission may divide the approved grant amount due to that wireless provider into appropriate increments, and pay the increments based upon installation of service to each individual answering point.</u></p> <p>Comment reference: Verizon Wireless, comment 8</p>
<p>52. s. PSC 173.11(5)(f)</p>	<p>(f) In the event that the wireless 911 fund has an insufficient balance to make all scheduled payments, the commission may adjust or reschedule payments to ensure the solvency of the fund.</p> <p>Comment references: Legislative Council, comment 2.d Cingular Wireless, comment 13</p>
<p>53. s. PSC 173.11(6)(d)</p>	<p>(d) A county; that is eligible to apply for a supplemental grant under s. PSC 173.08(1) or a local government in a county, that jointly operates a wireless public safety answering point with another county, or local government in another county; may apply for a supplemental grant under s. PSC 173.08 during the commission's second year or third year review if it did not apply for a supplemental grant when it submitted its grant application under s. PSC 173.07.</p> <p>Comment reference: US Cellular, comment 13</p>
<p>54. [new] s. PSC 173.11(6)(f)</p>	<p>(f) <u>The Commission may reduce the amount of the wireless surcharge collected under s. PSC 173.10(2)(b)2.b. during the final six months of the surcharge period to avoid collecting money in excess of the needs of the fund.</u></p> <p>Comment reference: TracFone, comment 1</p>

<p>55. s. PSC 173.11(7)</p>	<p>(7) FINAL REVIEW. At the conclusion of the reimbursement period, the commission shall distribute to wireless providers any funds collected but not disbursed or otherwise obligated. Funds shall be distributed to wireless providers in proportion to the providers' respective deposits into the fund. The commission shall withhold payment of this residual money until the provider agrees to credit its current customer accounts the full amount of the residual payment. If a provider does not agree, then that provider's distribution amount shall be proportionately distributed to those providers that have agreed. Upon completion of all scheduled payments, including the residual payments at the end of the reimbursement period, the commission shall discontinue the wireless-911 fund.</p> <p>Comment reference: Legislative Council, comment 2.d</p>
<p>56. Section 2</p>	<p>SECTION 2. EFFECTIVE DATES.</p> <p>(1) This rule, except s. PSC 173.10(1)(b) and (2), shall take effect on the first day of the second month following publication in the Wisconsin administrative register.</p> <p>(2) Section PSC 173.10(1)(b) and (2) shall take effect on the first day of the eleventh month following publication in the Wisconsin administrative register.</p> <p>Comment references: Legislative Council, comment 2.n US Cellular, comment 16</p>

2003 Session

FISCAL ESTIMATE

DOA-2048 N(R10/96)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.

1-AC-213

Amendment No. if Applicable

Subject

911 Wireless Program

Fiscal Effect

State: No State Fiscal EffectCheck columns below only if bill makes a direct appropriation
or affects a sum sufficient appropriation. Increase Costs - May be possible to Absorb
Within Agency's Budget Yes No

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

 Decrease CostsLocal: No local government costs

- | | | |
|--|--|---|
| 1. <input checked="" type="checkbox"/> Increase Costs
<input checked="" type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
2. <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory
4. <input type="checkbox"/> Decrease Revenues
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 5. Types of Local Governmental Units Affected:
<input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities
<input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others _____
<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts |
|--|--|---|

Fund Sources Affected

 GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

20.155 (1) (q)

Assumptions Used in Arriving at Fiscal Estimate

The Commission is authorized by Wis. Stat. s. 20.155 (3) (q) to receive and deposit moneys from a surcharge on wireless telephones, and to administer and make grants and supplemental grants from the wireless 911 fund. The program will create additional workload related to two specific activities. First, the Commission will consider and approve or disapprove approximately 100 applications for grants. This work can be accomplished by existing staff. Second, the Commission will deposit moneys and audit collection of those funds, and disburse grants and audit documentation to ensure the money is properly spent. Because the fund cannot have a negative balance annual adjustments will need to be made in the payout amounts along with monthly cash management procedures. Decisions have not been made on how this second part of the workload will be accomplished. The Commission may allocate an existing position to do the work, or may hire a money manager to do the audit, payout and money management functions much the way the Universal Services Program is managed. The legislation creating the fund provides for the PSC to use administrative funds as needed to accomplish the goals of the program during the three years of operation.

Local Government Costs:

The program may increase costs for local governments. The costs would be permissive; the 911 statute does not mandate participation in this program. However, if counties elect to participate in the program it is not expected that 100% of the Wireless 911 costs to implement enhanced wireless services will be reimbursed by the fund.

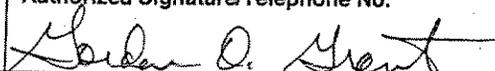
Long-Range Fiscal Implications

The counties will have ongoing costs associated with staffing and maintenance of equipment associated with the 911 program. The Commission's costs will be eliminated upon the sunset of the program.

Agency/Prepared by: (Name & Phone No.)

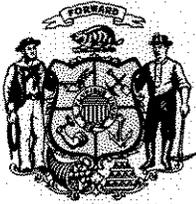
Gordon Grant 267-9086

Authorized Signature/Telephone No.



Date

March 12, 2004



Public Service Commission of Wisconsin

Burneatta Bridge, Chairperson
Robert M. Garvin, Commissioner

610 North Whitney Way
P.O. Box 7854
Madison, WI 53707-7854

C/O Ms. Donna Doyle
The Honorable Alan J Lasee
State Senate Journal and Records
Risser Justice Center
17 West Main Street, Room 401
Madison, WI 53703

C/O Mr. Kenneth Stigler
The Honorable John Gard
State Assembly Records
17 West Main Street, Room 208
Madison, WI 53703

Re: Revisions to Wis. Admin. Code ch. PSC 173 to Establish a
Wireless 911 Fund to Promote an Emergency Telephone
Number Service for Wireless Subscribers

1-AC-213

Clearinghouse Rule No. 04-026

Dear Senator Lasee and Representative Gard:

Pursuant to Wis. Stat. § 227.19(2), the Commission hereby submits a proposed rule in final draft form in the above-referenced matter. The Commission proposes to repeal and recreate Wis. Admin. Code ch. PSC 173, relating to the review of 911 emergency telecommunications service contract and the establishment and operation of the Wireless 911 Fund.

At its open meeting today, the Commission approved delivering this final draft to you for review by the Legislature's standing committees. Enclosed are the Rule Jackets and triplicate copies of the Commission's Proposed Order, which includes the Report to the Legislature in the form required under Wis. Stat. § 227.19(3).

If you have questions on this matter, please contact Dennis Klaila, Analyst, Telecommunications Division, at (608) 267-9780.

Dated at Madison, Wisconsin, August 11, 2004

By the Commission:


Lynda L. Dorr
Secretary to the Commission

LLD:DK:reb:t:\rules\wireless 911\1-AC-213 Leg cover ltr.doc

Enclosures



Public Service Commission of Wisconsin

Burneatta Bridge, Chairperson
Robert M. Garvin, Commissioner

610 North Whitney Way
P.O. Box 7854
Madison, WI 53707-7854

The Honorable Alan J. Lasee
C/O Ms. Donna Doyle
State Senate Journal and Records
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Re: Revisions to Wis. Admin. Code ch. PSC 173 to Establish a
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1-AC-213

Clearinghouse Rule No. 04-026

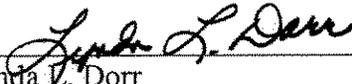
Dear Senator Lasee and Representative Gard:

On August 11, 2004, the Commission submitted a proposed rule in final draft form in the above-referenced matter. The report that accompanied the proposed rule refers to comments filed by the Wisconsin Alliance of Cities. *See* pp. 1 and 22 of Attachment A3. That reference is not correct. The comments were actually jointly filed by the Alliance of Cities and the **League of Wisconsin Municipalities**. The Commission requests that this letter be placed in the rules jacket along with the Report to the Legislature.

If you have questions on this matter, please contact John Lorence at (608) 266-8128.

Dated at Madison, Wisconsin, August 16, 2004

By the Commission:


Lynda L. Dorr
Secretary to the Commission

Telecommunications Division

LLD:DJK:reb:t:\RULES\wireless 911\1-AC-213 ltr.doc

cc: Curt Witynski, League of Wisconsin Municipalities

Vote Record

**Committee on Transportation and Information
Infrastructure**

Date: October 7, 2004
Bill Number: Clearinghouse Rule 04-026 (CR 04-026)
Moved by: Senate Committee on Transportation and Information Infrastructure
Motion: *Review period waived.*

Committee Member
Senator Joseph Leibham

<u>Aye</u>	<u>No</u>	<u>Not Voting</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Signature: _____

Joe Leibham

Vote Record

**Committee on Transportation and Information
Infrastructure**

Date: October 7, 2004
Bill Number: Clearinghouse Rule 04-026 (CR 04-026)
Moved by: Senate Committee on Transportation and Information Infrastructure
Motion: *Review period waived.*

Committee Member
Senator Ted Kanavas

<u>Aye</u>	<u>No</u>	<u>Not Voting</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Signature: _____



Vote Record

**Committee on Transportation and Information
Infrastructure**

Date: October 7, 2004
Bill Number: Clearinghouse Rule 04-026 (CR 04-026)
Moved by: Senate Committee on Transportation and Information Infrastructure
Motion: *Review period waived.*

Committee Member
Senator Neal Kedzie

<u>Aye</u>	<u>No</u>	<u>Not Voting</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Signature: _____



Vote Record

Committee on Transportation and Information
Infrastructure

Date: October 7, 2004
Bill Number: Clearinghouse Rule 04-026 (CR 04-026)
Moved by: Senate Committee on Transportation and Information Infrastructure
Motion: *Review period waived.*

Committee Member
Senator Roger Breske

<u>Aye</u>	<u>No</u>	<u>Not Voting</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Signature: _____

Roger Breske

Vote Record

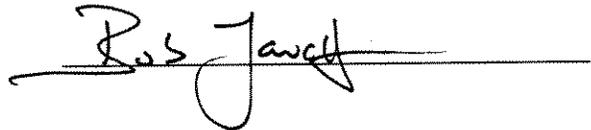
Committee on Transportation and Information
Infrastructure

Date: October 7, 2004
Bill Number: Clearinghouse Rule 04-026 (CR 04-026)
Moved by: Senate Committee on Transportation and Information Infrastructure
Motion: *Review period waived.*

Committee Member
Senator Bob Jauch

<u>Aye</u>	<u>No</u>	<u>Not Voting</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Signature:



Lindstedt, Daniel

From: Lindstedt, Daniel
Sent: Thursday, September 16, 2004 5:04 PM
To: Doyle, Donna; Burhop, Sarah
Subject: Committee Meeting Published

Importance: High



P20041006.doc

The Committee on Transportation and Information Infrastructure has scheduled a meeting for October 6, 2004 11:00 AM.