

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

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

FINAL ORDER ADOPTING RULES

The Public Service Commission of Wisconsin herein repeals and recreates Wis. Admin. Code ch. PSC 173.

**ANALYSIS PREPARED BY THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

A plain language analysis of the approved rules is set forth as Attachment A hereto.

TEXT OF THE PROPOSED RULES

The text of the approved rules is set forth as Attachment B hereto.

FINAL REGULATORY FLEXIBILITY ANALYSIS

The proposed rules impose additional reporting and surcharge collection requirements upon wireless providers. The affected wireless providers operate in the state under a federal commercial mobile radio service spectrum license. Given the substantial cost of obtaining this type of license, it is unlikely that any wireless provider in this state would be a small business as defined in s. 227.114(1), Stats.

The proposed rules may also impose additional reporting and surcharge collection requirements upon resellers of wireless service. Resellers offer service to consumers by purchasing airtime at wholesale rates from facilities-based providers and reselling it at retail

prices. Resale of wireless service accounts for approximately 5 percent of all mobile telephone subscribers nationally.¹ Only one reseller, Tracfone Wireless, Inc., participated in the comment cycle for this rule. Tracfone serves over 2 million customers nationwide through prepaid wireless service offerings, and is therefore not a small business as defined in s. 227.114(1), Stats. There may be other resellers of wireless service in Wisconsin that were not known to the Commission when these rules were adopted. It is possible that one or more of these resellers would be a small business as defined in s. 227.114(1), Stats. In any event, the Commission considered the methods for mitigating the impact of the proposed rules on small businesses set forth in s. 227.114(2), Stats., and found those methods to be inconsistent with statutory requirement in s. 146.70(3m)(f)1., Stats.

Order

1. These rules, 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.

¹ Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services, *Eighth Report*, 18 F.C.C.R. 14783, 14838-39 (2003).

Docket 1-AC-213

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.

Dated at Madison, Wisconsin, _____

By the Commission:

Lynda L. Dorr
Secretary to the Commission

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Attachments

Notice of Appeal Rights

Notice is hereby given that a person aggrieved by the foregoing decision has the right to file a petition for judicial review as provided in Wis. Stat. § 227.53. The petition must be filed within 30 days after the date of mailing of this decision. That date is shown on the first page. If there is no date on the first page, the date of mailing is shown immediately above the signature line. The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

Notice is further given that, if the foregoing decision is an order following a proceeding which is a contested case as defined in Wis. Stat. § 227.01(3), a person aggrieved by the order has the further right to file one petition for rehearing as provided in Wis. Stat. § 227.49. The petition must be filed within 20 days of the date of mailing of this decision.

If this decision is an order after rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not an option.

This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

Revised 9/28/98

**ANALYSIS PREPARED BY THE
PUBLIC SERVICE COMMISSION OF WISCONSIN**

Statutory authority: ss. 146.70(3m)(d)4, (e) and (f); 196.02(3) and 227.11(2), Stats.

Statute interpreted: s. 146.70, Stats.

A. Objective of the Rule

The objective of this rulemaking is to implement a three-year grant program created by 2003 Wisconsin Act 48 (Act 48) to reimburse local governments and wireless telecommunications service providers for certain costs they will incur to establish an enhanced wireless 911 service. The proposed rule funds the grant program by imposing a temporary surcharge on the subscribers of wireless service in Wisconsin.

The existing 911 emergency number services in place throughout the country use two distinct network designs. Basic 911 service uses the public switched network to route calls to the answering point. The telephone switch uses a translation table to convert the dialed 911 digits to a standard seven-digit or ten-digit telephone number. The dispatcher at the answering point must query the caller to learn the name and location of the calling party.

Enhanced 911 (E911) service routes a 911 call (from the telecommunications central office switch to the county or municipal public safety answering point) over a dedicated network, independent of the public switched network. The enhanced service will automatically report the name and address corresponding to the calling party's access line. The enhanced service also permits the system to route 911 calls from a given telephone exchange to more than one answering point, based upon the calling party's location. A telephone exchange may straddle a county boundary or a municipal boundary within a county. A call from a customer in that exchange can be routed to the public safety answering appropriate to the calling party's location. Thus, enhanced 911 service can be distinguished from basic 911 service by three service elements: a dedicated network, automatic location identification (ALI), and selective routing.

The 911 emergency number systems that are currently deployed in Wisconsin will terminate calls directed to 911 from wireless telephones. This is required by s. 146.70(2)(h), Stats. However, the existing access to 911 from wireless telephones can only provide the features of a basic 911 system. Wireless 911 calls are routed over the public switched network. A wireless provider routes all 911 calls originated by its antennas or cell sites in a given county to the wireless answering point designated for that county. The current wireless 911 system cannot support multiple answering points within a given county. The current system does not disclose the wireless calling party's telephone number or location. This lack of automatic location disclosure severely degrades the usefulness of wireless 911 service, particularly in

instances when the caller cannot communicate with the dispatcher or when the caller is in a rural or off-road location that lacks landmarks or other reference points known to the caller or to the dispatcher answering the call.

The proposed rule addresses these deficiencies by providing funds to reimburse wireless providers and local governments for the cost of the additional equipment, computer software and telephone network facilities that are required to provide the service elements (dedicated access, ALL, and selective routing) associated with wireless E911 service.

B. Statutory Authority to Promulgate the Proposed Rule

Section 25.98, Stats., creates the Wireless 911 Fund.

Section 146.70(3m)(d)4, Stats., directs the Commission to promulgate rules setting forth the requirements and procedures for making grants from the Wireless 911 Fund. The rules shall establish the criteria the Commission will use to estimate the costs that will be incurred to implement wireless E911 service, the time period during which the funds may be disbursed, the record-keeping requirements grantees must comply with, and the conditions under which a wireless provider or local government may revise a previously approved application.

Section 146.70(3m)(e), Stats., directs the Commission to promulgate rules for making supplemental grants from the Wireless 911 Fund to counties that have submitted joint applications. The rules shall establish an incentive to encourage counties to submit joint applications.

Section 146.70(3m)(f), Stats., directs the Commission to promulgate rules requiring each wireless provider to impose the same monthly surcharge for each telephone number of a customer that has a billable address in Wisconsin, except that the rules shall adjust the amount of the surcharge that is imposed on customers who prepay for service to ensure that such customers pay an amount that is comparable to the monthly amount paid by other customers.

C. Summary of Existing Federal Regulation

Act 48 responds in part to policy initiatives of the U.S. Congress and the Federal Communications Commission (FCC). *See* Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, 113 Stat. 1286 (1999); and 47 CFR 20.18.

The FCC first adopted a rule to promote wireless E911 service throughout the country in 1996. The rule established a two-phase plan for implementation of wireless E911 service. Phase I requires wireless providers to upgrade their networks to permit answering points to determine a wireless caller's originating telephone number and the active base station or cell site carrying the 911 call. 47 CFR 20.18(d). Phase II requires wireless providers to install equipment to enable answering points to determine the actual geographic location of the calling party to within a specified range of accuracy. 47 CFR 20.18(e)-(i).

A wireless provider may implement the Phase II capability on its network using either of two available technologies. The first alternative is termed “network-based.” The network-based method determines a caller’s location by triangulating signals received by several different cell sites or base stations. Wireless providers employing the network-based method must provide the location of wireless 911 calls with an accuracy of 100 meters for 67 percent of calls and 300 meters for 95 percent of calls. 47 CFR 20.18(h)(1).

The second method is termed “handset-based.” This method uses a Global Positioning System (GPS) device installed in the wireless telephone to locate the caller. Wireless providers employing the handset-based method must provide the location of wireless 911 calls with an accuracy of 50 meters for 67 percent of calls and 150 meters for 95 percent of calls, and must ensure that 95 percent of their customers have location-capable handsets by December 31, 2005. 47 CFR 20.18(h)(2).

A wireless provider is only obligated to furnish wireless E911 service to an answering point if the local government has served a valid request for service upon the provider. Once a valid request has been served, the wireless provider must implement the E911 service to that answering point within six months of the date of the request. 47 CFR 20.18(d) and (j)(2). A request is valid if the administrator of a public safety answering point has requested the service and the answering point is capable of receiving and utilizing the information associated with the wireless E911 service. 47 CFR 20.18(j)(1). The federal rule further provides that answering point will be deemed to be capable of receiving and utilizing the information associated with the wireless E911 service if the local government can demonstrate that it has ordered the necessary equipment and has commitments from suppliers to have it installed and operational within the six-month period, and has made a timely request to the appropriate local exchange carrier for the necessary trunks, equipment upgrades, and other service elements to support and transport a wireless E911 call. 47 CFR 20.18(j)(2)(i)(A) and (B).

The Wireless 911 Fund will provide the financial support wireless providers and local governments need to acquire the equipment and telecommunications network facilities associated with the wireless E911 service. The Commission expects that this financial support will ensure that the threshold requirements of the federal rule will be satisfied as well.

D. Comparison of Similar Rules in Adjacent States

Michigan

On December 23, 2003, Michigan enacted 2003 Mich. Pub. Act 244, amending Mich. Comp. Laws Ann. §§ 484.1408, 484.1411, 484.1602 and 484.1711 (West 2004). This act imposes a surcharge of \$0.52 per month for 24 months for each wireless telephone service connection (as defined in Michigan statutes) that has a billing address in Michigan. The surcharge drops to \$0.29 for the final 12 months of the program (CY 2006). If a wireless provider notifies the state that it will not seek reimbursement for its costs from the Michigan fund, the surcharge for that provider’s subscribers drops to \$0.29 immediately.

Act 244 provides that \$0.265 of each monthly surcharge will be disbursed to counties to reimburse training, network and equipment costs related to wireless emergency service.

Minnesota

In Minnesota, a surcharge is applied to the monthly bill for each customer receiving service from a wireless or wireline telecommunications service provider. The surcharge is authorized by Minn. Stat. §§ 403.11.1(c) and 403.113.1(a). The 911 fee is presently set at \$0.40 per month per line for both wireless and wireline telephone service.

The money collected from the 911 fee is distributed to counties in Minnesota according to a formula set forth in the statute. This money may be spent to lease, purchase, lease-purchase, or maintain enhanced 911 equipment, including telephone equipment; recording equipment; computer hardware; computer software for database provisioning, addressing, mapping, and any other software necessary for automatic location identification or local location identification; trunk lines; selective routing equipment; the master street address guide; dispatcher public safety answering point equipment proficiency and operational skills; pay for long-distance charges incurred due to transferring 911 calls to other jurisdictions; and the equipment necessary within the public safety answering point for community alert systems and to notify and communicate with the emergency services requested by the 911 caller. Minn. Stat. § 403.113.3(a).

Illinois

In Illinois, each wireless carrier is required to impose a monthly surcharge per wireless connection that either has a telephone number within an area code assigned to Illinois by the North American Numbering Plan administrator or has a billing address in Illinois. 50 Ill. Comp. Stat. 751/17(a)(2004). The monthly wireless surcharge is presently set at \$0.75 per month.

The statute provides that one-third of the wireless surcharge will be used to reimburse wireless carriers for their 911-related expenses. 50 Ill. Comp. Stat. 751/17(b)(2004). The remaining two-thirds of the wireless surcharge will be used for grants for emergency telephone system boards, qualified government entities, or the Illinois Department of State Police, and for reimbursement of the Communications Revolving Fund for administrative costs incurred by the Illinois Department of Central Management Services related to administering the program. These grants may be used only for the design, implementation, operation, maintenance, or upgrade of wireless 911 or E911 emergency services and public safety answering points, and for no other purposes. Grants from their wireless fund may not be used to pay for or recover any costs associated with public safety agency equipment or personnel dispatched in response to wireless 911 or wireless E911 emergency calls.

Iowa

In 1998, Iowa enacted Iowa Acts 1998 (77 G.A.) ch. 1101, § 9 (eff. Apr. 16, 1998) and codified as Iowa Code Ann. § 34A.7A (West 2004) authorizing a surcharge on wireless communications service numbers in Iowa to support E911 service. Iowa set the wireless

surcharge at \$0.50, and began to collect that surcharge in January 1999. Iowa Admin. Code § 605—10.8(34A)(2004).

The Iowa statute provides that the wireless E911 fund shall reimburse the authorized expenses of the fund administrator, and shall reimburse wireless providers for all eligible costs associated with the implementation and operation of E911 services. The administrator may also disburse funds to a local joint E911 service board or department of public safety, upon request, if the administrator finds that the requested funding is for equipment necessary for the reception and disposition of wireless E911 calls and that sufficient funds are available. Iowa Code § 34A.7A.2.

E. Section-by-Section Analysis of the Proposed Rule

Subchapter I

The rule first makes non-substantive changes to the format of ch. PSC 173 to improve the overall presentation of the chapter. The rule is now organized into three subchapters. The first subchapter concerns general matters. In s. PSC 173.02, the rule adds definitions for 15 terms with meaning unique to this chapter.

Subchapter II

Subchapter II concerns the funding of wireline 911 systems adopted by counties under a county-wide 911 service contract. Generally, this subchapter recreates provisions that were first adopted in February 1989.

In s. PSC 173.03(3), the rule adds a provision permitting telecommunications providers to file a county-wide 911 service contract and supporting information under a confidential cover. This provision reflects the fact that local exchange telecommunications service is becoming increasingly competitive, and the providers do not want to make public company-specific cost and market-share data.

In s. PSC 173.04(1), the rule modifies the current notice requirement for county-wide 911 contracts to align the notice procedure in this rule with the Commission's general administrative process in ch. PSC 2.

Subchapter III

Subchapter III concerns the funding of enhanced wireless 911 systems with grants from the Wireless 911 Fund.

In s. PSC 173.06, the rule provides the criteria under which grant applications from wireless providers will be reviewed and approved. This section also requires wireless providers to make certain declarations as well. A wireless provider must disclose any funds that have already been received from customers as reimbursement for the provider's 911 development and operating expenses in the state. The provider must describe its service area in the state, and

report which answering points in that service area have actually requested wireless E911 service from the provider under 47 CFR 20.18. The provider must attest that its E911 service conforms to the performance standard in the federal rule, and disclose any waivers that postpone the effective date of that standard for that provider.

In s. PSC 173.07, the rule provides the criteria under which grant applications from local governments will be reviewed and approved. In s. PSC 173.07(3), the rule specifies the equipment, training, telecommunications network, and data resources that may be reimbursed by the Wireless Fund. Under s. PSC 173.07(3)(a)3, the fund will reimburse the cost of local exchange trunks, selective routing, database access, and other telecommunications services needed to support wireless E911 service during the 3-year life of the Wireless Fund. After the fund expires, counties and other local governments will pay the ongoing or monthly recurring charges for these services.

In s. PSC 173.08, the rule provides the criteria under which local governments applications for supplemental grants will be reviewed and approved. In s. PSC 173.08(1), the rule limits the availability of the supplemental grant program to instances where two or more counties have agreed to consolidate answering points into a single regional facility with primary dispatch responsibility over the consolidated territory.

In s. PSC 173.09, the rule sets forth the procedures and standards the Commission will use to approve or disapprove grant applications.

In s. PSC 173.10, the rule sets forth the procedures for setting the wireless surcharge, and for collecting and depositing the money generated by the wireless surcharge.

In s. PSC 173.11, the rule sets forth the procedures the Commission will use to administer the Wireless 911 Fund. In s. PSC 173.11(6), the rule schedules a review of the surcharge rate at the end of the first and second year of the program to ensure that the fund has sufficient funds, but does not accumulate excess money. To the extent that there is money left in the fund at the end of the third year of the program, the rule provides that that money will be returned to wireless subscribers as a credit on their telephone bill.

In s. PSC 173.12, the rule recites the language adopted by the legislature in s. 146.70(3m)(g), Stats., to protect the confidentiality of commercially-sensitive information provided by the wireless telecommunications industry to support implementation of the wireless 911 service.

1 SECTION 1. Chapter PSC 173 is repealed and recreated to read:

2 **Wisconsin Administrative Code**

3 **Chapter PSC 173**

4 **911 EMERGENCY TELECOMMUNICATIONS SERVICE**

5 **Subchapter I—General Provisions**

6 **PSC 173.01 Purpose.** The purpose of this chapter is to implement those provisions of
7 s. 146.70, Stats., that authorize the commission to review the contracts between counties and
8 telecommunications providers for the provision of 911 emergency telecommunications service
9 and that establish a wireless 911 fund to promote installation and use of enhanced wireless 911
10 emergency telecommunications service.

11 **PSC 173.02 Definitions.** In this chapter:

12 (1) “Active prepaid wireless telephone” means a prepaid wireless telephone that has
13 been used or activated by the customer during the month to complete a telephone call for which
14 the customer’s card or account was decremented.

15 (2) “Commercial mobile radio service provider” has the meaning given in s. 196.01(2g),
16 Stats.

17 (3) “Commission” means the public service commission.

18 (4) “Designated public safety answering point” means a wireless public safety answering
19 point that has been identified in a resolution adopted under s. 146.70(3m)(c)3. or 6., Stats., for
20 the purpose of implementing the federal wireless orders.

1 **(5)** “Federal wireless orders” means the orders of the federal communications
2 commission regarding 911 emergency services for wireless telephone users in FCC docket
3 no. 94-102.

4 **(6)** “Fund” means the wireless 911 fund established by s. 25.98, Stats.

5 **(7)** “Local government” has the meaning given in s. 146.70(3m)(a)4., Stats.

6 **(8)** “Phase I wireless 911 service” means the wireless telecommunications service
7 described in 47 CFR 20.18(d).

8 **(9)** “Phase II wireless 911 service” means the wireless telecommunications service
9 described in 47 CFR 20.18(e)-(i).

10 **(10)** “Prepaid wireless telephone service” means wireless telephone service which is
11 activated by payment in advance of a finite dollar amount or for a finite set of minutes and
12 which, unless an additional finite dollar amount or finite set of minutes is paid in advance,
13 terminates either upon use by a customer of an agreed-upon amount of service corresponding to
14 the total dollar amount paid in advance, or within a certain period of time following initial
15 purchase or activation.

16 **(11)** “Reimbursement period” has the meaning given in s. 146.70(3m)(a)5., Stats.

17 **(12)** “Surcharge period” means the 3-year period beginning on the first day of the second
18 month beginning after the effective date of s. PSC 173.10(1)(b) and (2) ...[revisor inserts date]
19 and ending on the last day of the thirty-fifth month beginning after the month in which the
20 surcharge period commences....[revisor inserts date].

21 **(13)** “Wireless provider” has the meaning given in s. 146.70(3m)(a)6., Stats.

1 (14) “Wireless public safety answering point” has the meaning given in
2 s. 146.70(3m)(a)7., Stats.

3 (15) “Wireless surcharge” means the monthly surcharge required by s. 146.70(3m)(f),
4 Stats.

5 **Subchapter II—Wireline 911 Emergency Telecommunications Service Contracts**

6 **PSC 173.03 Submission of telecommunications emergency services contracts.** (1) A
7 telecommunications provider that enters into a contract with a county for the provision of
8 wireline 911 emergency telecommunications service shall within 20 days submit the contract for
9 commission review.

10 (2) In addition to the contract, the utility shall submit all of the following information:

11 (a) A copy of the county ordinance adopting the plan for a wireline 911 emergency
12 telecommunications system.

13 (b) A list identifying all participating local exchange carriers and a statement that each
14 has tariffs or concurring tariffs on file with the commission providing for individual 911
15 contracts.

16 (c) A list identifying the localities and the number of all service users residing outside
17 the contracting county, specifying the municipality in which they reside.

18 (d) A list identifying those municipalities outside the contracting county with residents
19 who will be billed for the service.

20 (e) A statement that all telecommunications service users in the county have access to a
21 wireline 911 system. If such a statement cannot be made with regard to a segment of the
22 county's service users, the telecommunications utility shall provide information indicating that

1 the local exchange carrier serving those service users is not capable of providing the wireline 911
2 system on a reasonable economic basis on the effective date of the contract.

3 (f) A list of exchanges in the county with customers served by a wireline 911 system
4 outside the county, which identifies the provider of the wireline 911 service.

5 (g) A description of access to the wireline 911 system by telecommunications devices
6 for the communicatively impaired.

7 (h) Cost support for and complete itemization of the installation and monthly charges for
8 automatic number identification, automatic location identification and all trunking service
9 components for both the primary telecommunications utility under the contract and the
10 participating local exchange carriers. Cost support may be in the form of tariff reference if the
11 rates and charges for wireline 911 service are those in the utility's tariffs.

12 (i) A statement of the total billable exchange access lines for purposes of the contract
13 and the actual exchange access line count. This statement shall provide detail as to how the
14 billable exchange access line count was determined, including any equivalency factor used for
15 the line equivalents and the number of lines to which the factor applies.

16 (3) The commission shall withhold from public inspection any wireline 911 emergency
17 telecommunications service contract, or any other information received under this subchapter,
18 that would aid a competitor of one or more of the participating telecommunications providers.

19 **PSC 173.04 Commission review.** (1) Upon receipt of a contract for wireline 911
20 emergency telecommunications service, the commission shall issue a notice of investigation in
21 accordance with s. PSC 2.09.

1 (2) Within 60 days of receipt of a contract for the provision of wireline 911 emergency
2 telecommunications service, the commission may disapprove the contract if it finds any of the
3 following:

4 (a) The contract is not compensatory.

5 (b) The contract is excessive.

6 (c) The contract does not comply with the utility's tariff specifying the rates and charges
7 or terms and conditions for the offering of wireline 911 emergency telecommunications service.

8 (3) The commission may act on the contract without hearing.

9 (4) Any person may request disapproval of the contract within 20 days of mailing of
10 notice by the commission, specifying reasons for the disapproval in writing. The person may
11 request a hearing by specifying factual issues that are in dispute.

12 (5) The contract shall be effective immediately on signing and remain effective unless
13 and until disapproved by the commission.

14 **PSC 173.05 Assessment.** A telecommunications provider submitting a contract under s.
15 PSC 173.03 shall pay the commission's direct costs of contract approval, unless the utility has an
16 agreement with participating telecommunications providers to share this cost.

17 **Subchapter III—Wireless 911 Fund**

18 **PSC 173.06 Grant applications from wireless providers.** (1) A wireless provider
19 may apply to receive a grant from the fund as reimbursement for costs estimated in sub. (2).

20 Except as provided in sub. (6), the wireless provider shall submit an application to the

1 commission no later than the first day of the third month beginning after the effective date of this
2 section[revisor inserts date].

3 (2) An application under sub. (1) shall contain an itemized estimate, and supporting
4 documentation, of the costs that the applicant has incurred, or will incur, during the
5 reimbursement period to upgrade, purchase, lease, program, install, test, operate, or maintain all
6 data, hardware, and software necessary to comply with the federal wireless orders in this state.

7 (a) This estimate may not include any costs for the implementation of wireless 911
8 emergency service in this state for which the wireless provider has been reimbursed by
9 customers in this state before or during the reimbursement period, apart from the wireless
10 surcharge established pursuant to s. PSC 173.10. This estimate may include reasonable
11 administrative costs associated with the billing and collection of the wireless surcharge.

12 (b) If a wireless provider does request reimbursement of its costs to provide Phase II
13 wireless 911 service in this state in its application under sub. (1), the provider may elect not to
14 submit an estimate of its Phase II costs.

15 (3) An application under sub. (1) shall declare the amount of money the wireless
16 provider has recovered or will recover from customers in this state before or during the
17 reimbursement period, apart from the wireless surcharge established pursuant to s. PSC 173.10,
18 as reimbursement for costs the wireless provider has incurred or will incur to implement wireless
19 emergency 911 service in this state.

20 (a) The declaration shall include all money recovered from customers with a recurring
21 billing statement or pre-paid service agreement using a separate line item charge identified as
22 related to or associated with the implementation, installation, maintenance, or operation of

1 wireless 911 emergency service network facilities or service features in this state, regardless of
2 whether the amount collected was actually used for that purpose.

3 (b) If a wireless provider does not request reimbursement of its costs to provide Phase II
4 wireless 911 service in this state in its application under sub. (1), the provider may elect not to
5 make the declaration required under this subsection with respect to its Phase II service.

6 (4) An application under sub. (1) shall contain a description or explanation of the
7 geographic area in which the wireless provider will provide wireless 911 service in this state.
8 The application shall disclose which local governments within the geographic service area the
9 wireless provider has described have requested from the provider either Phase I or Phase II
10 wireless 911 service in accordance with 47 CFR 20.18(j).

11 (5) A wireless provider may not apply for a grant under this section if its provision of
12 911 service does not conform to applicable requirements set forth at 47 CFR 20.18. A wireless
13 provider's eligibility for a grant under this section shall not be conditioned upon compliance with
14 a location accuracy standard different from that established in 47 CFR 20.18 and applicable
15 federal wireless orders. An application under sub. (1) shall contain an attestation that the
16 applicant's service conforms to the requirements of 47 CFR 20.18, and shall disclose any
17 waivers or other applicable orders of the federal communications commission that postpone the
18 date on which the applicant is required to meet the service standards established in 47 CFR
19 20.18.

20 (6) A wireless provider that does not provide service to customers in this state before
21 September 3, 2003, may make an application under this section after the first day of the third

1 month beginning after the effective date of this section ...[revisor inserts date] under s. PSC
2 173.11(6)(b).

3 **PSC 173.07 Grant applications from local governments.** (1) A local government,
4 that is authorized by s. 146.70(3m)(c)1., Stats., to do so, may apply to receive a grant from the
5 fund as reimbursement for costs that have been directly and primarily incurred, or will be
6 directly and primarily incurred, or both, for leasing, purchasing, operating, or maintaining the
7 wireless public safety answering point, as well as telecommunications network costs assigned to
8 the local government for recovery under 47 CFR 20.18(j) and applicable federal wireless orders.
9 The local government shall submit an application to the commission no later than the first day of
10 the third month beginning after the effective date of this section ...[revisor inserts date].

11 (2) An application under sub. (1) shall do all of the following:

12 (a) Demonstrate with appropriate documentation that each county which itself is one of
13 the local governments or in which any of the local governments is located has adopted a
14 resolution to satisfy the requirement of ss. 146.70(3m)(c)3. or 4., Stats.

15 (b) Demonstrate that the designated public safety answering point will serve the
16 geographic area specified by ss. 146.70(3m)(c)5. and 6., Stats.

17 (c) Demonstrate that the designated public safety answering point has complied with the
18 requirements set forth in 47 CFR 20.18(j).

19 (d) Contain an estimate of costs under sub. (3).

20 (e) If an application is for the joint operation of a wireless public safety answering point
21 by local governments, specify the manner in which the estimated costs are apportioned among
22 the local governments.

1 **(3)** The estimate of costs under sub. (2)(d):

2 (a) Shall include an estimate of all costs that the applicant has directly and primarily
3 incurred, or will directly and primarily incur, during the reimbursement period for leasing,
4 purchasing, operating, or maintaining the wireless public safety answering point including costs
5 for all of the following:

6 1. Necessary network equipment, computer hardware and software, database equipment,
7 and radio and telephone equipment, that are located within the wireless public safety answering
8 point.

9 a. The estimate of costs may include radio equipment if that equipment is necessary to
10 complete a wireless 911 call to the designated public safety answering point, including
11 microwave telecommunications equipment provided by a telecommunications provider and radio
12 equipment used to transfer calls between answering points to the extent approved under
13 s. PSC 173.09(4).

14 b. The estimate of costs may not include radio equipment that is used for a purpose other
15 than completing a wireless 911 call to the designated public safety answering point, including
16 radio equipment providing communications between a dispatcher and an emergency vehicle and
17 radio equipment providing an inter-agency or inter-government communications link for
18 purposes other than that approved under s. PSC 173.09(4).

19 2. Training operators of a wireless public safety answering point. The estimate of
20 training costs may not include any portion of the salary and benefits paid to an individual
21 employed by a county or municipal government in any of the job descriptions associated with the
22 operation of the designated public safety answering point.

1 3. Network costs for delivery of calls from a wireless provider to a wireless public safety
2 answering point.

3 4. Collection and maintenance of data used by the wireless public safety answering
4 point, including data to identify a caller and the location of a caller.

5 5. Relaying messages regarding wireless emergency 911 telephone calls via data
6 communications from the wireless public safety answering point to local government emergency
7 call centers in operation before June 1, 2003, that dispatch the appropriate emergency service
8 providers.

9 (b) May include costs directly and primarily incurred by the applicant between
10 January 1, 1999, and September 3, 2003, for any costs identified in par. (a)1. or 4.

11 (c) May not include:

12 1. Costs related to any of the following:

13 a. Emergency service dispatch, including personnel, training, equipment, software,
14 records management, radio communications, and mobile data network systems.

15 b. Vehicles and equipment in vehicles.

16 c. Communications equipment and software used to communicate with vehicles.

17 d. Real estate and improvements to real estate, other than improvements necessary to
18 maintain the security of a wireless public safety answering point.

19 e. Salaries and benefits of operators of a wireless public safety answering point.

20 2. Any costs in sub. (3)(a) which the applicant has recovered in the form of a gift or
21 grant for the purposes described in sub. (3)(a).

1 (4) Except to the extent approved by the commission under s. PSC 173.09(4), an
2 application from a local government or governments under this section may request to receive a
3 grant for only one wireless public safety answering point in each county.

4 **PSC 173.08 Supplemental grants.** (1) A county may apply for a supplemental grant
5 under this section if:

6 (a) The county, or a local government within the county, jointly operates a wireless
7 public safety answering point with another county, or local government in another county.

8 (b) The county has previously or concurrently applied for a grant under s. PSC 173.07.

9 (c) Each county in which the participating local governments are located has adopted a
10 resolution pursuant to s. 146.70(3m)(c)3., Stats., designating the same wireless public safety
11 answering point, and that answering point is located in the county submitting the application for
12 a supplemental grant.

13 (d) The designated public safety answering point provides a single point of termination
14 for telephone calls directed to 911 that originate from wireless telephones located within the
15 combined geographic jurisdiction of the participating local governments.

16 (e) For purposes of this section, a “local government in another county” means a city,
17 village or town located in a county other than the county applying for a supplemental grant that
18 operates a public safety answering point, as defined in s. 146.70(1)(gm), Stats., pursuant to a
19 countywide 911 system plan adopted by ordinance in accordance with s. 146.70(3)(b)1., Stats.

20 (2) (a) To receive a supplemental grant during all three years of the reimbursement
21 period, a county that is eligible to apply for a supplemental grant under sub. (1) shall submit its

1 application to the commission with its application under s. PSC 173.07, no later than the first day
2 of the third month beginning after the effective date of this section[revisor inserts date].

3 (b) To receive a supplemental grant during the second and third year of the
4 reimbursement period, a county that is eligible to apply for a supplemental grant under sub. (1),
5 and that did not submit an application for a supplemental grant with its grant application under s.
6 PSC 173.07, shall submit its application during the commission's second year review under s.
7 PSC 173.11(6) by the date the commission establishes in a public notice.

8 (c) To receive a supplemental grant during the third year of the reimbursement period, a
9 county that is eligible to apply for a supplemental grant under sub. (1), and that did not submit an
10 application for a supplemental grant with its grant application under s. PSC 173.07 or during the
11 commission's second year review, shall submit its application during the commission's third
12 year review under s. PSC 173.11(6) by the date the commission establishes in a public notice.

13 (3) An application for a supplemental grant under this section is in addition to the
14 application for grants that the county may make under s. PSC 173.07.

15 (4) An application for a supplemental grant under this section is not subject to the
16 restrictions set forth in s. PSC 173.07.

17 (5) An individual supplemental grant shall not exceed an amount equal to 50% of the
18 amount awarded to the applicant county as a grant under ss. PSC 173.07(1) and PSC 173.09(3).
19 The total of the amount awarded as supplemental grants shall not exceed 10% of the 911
20 wireless fund.

21 **PSC 173.09 Review and approval of grant and supplemental grant applications. (1)**

22 The commission shall provide reasonable notice to the clerk of each county, each wireless

1 provider that has requested notice, and any other interested party, of the date on which an
2 application under this subchapter is due. If an application under ss. PSC 173.06 or 173.07 is
3 submitted after the deadline, the commission shall take action under sub. (7).

4 (2) After the receipt of an application requesting a grant under this subchapter, the
5 commission shall issue a notice of investigation in accordance with s. PSC 2.09 if it has not
6 already done so. The commission shall provide an opportunity for interested parties to comment
7 on whether pending grant applications should be approved, subject to the limitation on access to
8 information in s. PSC 173.12.

9 (3) The commission shall approve an application under ss. PSC 173.06 or 173.07 if the
10 commission determines all of the following:

11 (a) The costs estimated in the application have been, or will be, incurred for the purpose
12 of promoting a cost-effective and efficient statewide system for responding to wireless
13 emergency 911 telephone calls.

14 (b) The costs estimated in the application are reasonable.

15 (c) The application complies with the requirements of this chapter.

16 (d) If the application is from a local government and includes costs related to the
17 collection and maintenance of data under s. PSC 173.07(2)(d), the requirements under sub. (6)
18 are met.

19 (4) The commission shall approve an application requesting a supplemental grant under
20 s. PSC 173.08 if the commission determines all of the following:

21 (a) The supplemental grant application is submitted by a county and complies with the
22 requirements of this chapter.

1 (b) The amount requested is reasonable.

2 (5) Notwithstanding sub. (3), the commission may only approve an application for a
3 grant to reimburse a local government for costs under s. PSC 173.07(3)(a)5. if the commission
4 first determines that reimbursement of such costs is in the public interest and will promote public
5 health and safety. In making this determination, the Commission shall give preference to
6 applications that propose to use existing equipment, and request reimbursement for equipment
7 already purchased and costs already incurred.

8 (6) If an application from a local government requests reimbursement under s. PSC
9 173.07(3)(a) for equipment and facilities that will also be used to terminate wireline 911
10 emergency telecommunications service, the commission shall presume that one half of the total
11 cost of equipment and facilities is directly associated with wireless 911 service and can be
12 reimbursed from the fund.

13 (a) An applicant may rebut this 50% presumption by providing sufficient evidence to
14 demonstrate that the presumed ratio is unfair and would unreasonably burden local taxpayers
15 with the recovery of costs directly and solely attributable to the addition of enhanced wireless
16 911 telephone service.

17 (b) A wireless provider or other interested party may also submit comments in response
18 to the notice required under sub. (2) challenging this presumption by providing sufficient
19 evidence to demonstrate that the presumed ratio is unfair and would unreasonably burden
20 wireless telephone subscribers with the recovery of costs that have not been, or will not be,
21 incurred for the purpose of promoting a cost-effective and efficient statewide system for
22 responding to wireless emergency 911 telephone calls.

1 (7)(a) An application from a local government that requests reimbursement for costs
2 related to the collection and maintenance of data under s. PSC 173.07(2)(d) shall be approved
3 only if the commission determines all of the following:

4 1. The local government's collection of land information, and development of a land
5 information system that is related to that purpose are consistent with the applicable county land
6 records modernization plans developed under s. 59.72(3)(b), Stats.

7 2. The local government's collection of land information conforms to the standards on
8 which such plans are based.

9 3. The local government's collection of land information does not duplicate land
10 information collection and other efforts funded through the land information program under
11 s. 16.967(7), Stats.

12 (b) For any determination made by the commission under par. (a) before July 1, 2005, the
13 commission shall first request the advice of the land information board before making its
14 determination.

15 (8) If a wireless provider or local government submits an application after the deadline
16 specified in ss. PSC 173.06 and PSC 173.07, respectively, the commission shall reduce the costs
17 approved under sub. (3) by the following amounts:

18 (a) If the application is less than 1 week late, 5%.

19 (b) If the application is 1 week or more but less than 2 weeks late, 10%.

20 (c) If the application is 2 weeks or more but less than 4 weeks late, 25%.

21 (d) If the application is 4 weeks or more late, the wireless provider or local government is
22 not eligible for a grant.

1 (9) If the commission does not approve an application under sub. (3) or sub. (4), the
2 commission shall provide the applicant with the commission's reasons and give the applicant an
3 opportunity to resubmit the application. If the commission approves a part of the application, the
4 commission shall provide the applicant with the commission's reasons for disapproving part of
5 the application and give the applicant an opportunity to resubmit the portion of the application
6 previously disapproved.

7 (10) For any application under this subchapter pending before the commission, the
8 wireless provider or a local government that submitted the application may revise the application
9 before the commission approves or disapproves it without incurring a penalty under sub. (8). For
10 any application approved by the commission under sub. (3), the wireless provider or a local
11 government that submitted the application may revise the application before the commission
12 makes a disbursement to that wireless provider or local government.

13 **PSC 173.10 Wireless surcharge. (1) CALCULATION.** (a) Upon the request of the
14 commission, each wireless provider shall file with the commission a report setting forth the
15 number of its wireless telephone numbers with billing addresses in this state that are billed on a
16 recurring basis and the number of its wireless telephone numbers subject to a pre-paid service
17 agreement with a customer with an address in this state or sold within this state, as of the date
18 specified in the commission request.

19 (b) The commission shall determine the amount of the wireless surcharge by dividing the
20 sum of the total amount of money requested from all grant and supplemental grant applications
21 approved under s. PSC 173.09 and the reasonable administration costs under 173.11(2) by 36,

1 and then dividing that result by the total number of telephone numbers served by wireless
2 providers and reported under sub. (a).

3 (2) ORDER. The commission shall set the amount of the wireless surcharge by an order
4 pursuant to s. 227.47(1), Stats. An interested party may petition to reopen the proceeding and
5 amend the surcharge order under s. 196.39(2), Stats., and s. PSC 2.28.

6 (3) COLLECTION. (a) Each wireless provider shall impose the wireless surcharge for
7 each telephone number of a customer that has a billing address in this state on each bill rendered
8 during the surcharge period.

9 (b) The wireless surcharge shall be calculated and applied on a monthly basis. The
10 wireless surcharge shall be the same for each wireless telephone number, regardless of the
11 serving wireless provider, except that:

12 1. For a customer that is billed on a recurring basis other than monthly, the
13 wireless provider shall impose a surcharge equal to the amount of the wireless surcharge times
14 the number of months of service billed in that customer's billing statement times the number of
15 telephone numbers billed or assigned to that customer.

16 2. For a customer with prepaid wireless telephone service, the wireless provider
17 shall charge to that customer's prepaid account using one of the following methods:

18 a. The provider shall charge the prepaid account the amount of the monthly surcharge
19 when the telephone becomes an active prepaid wireless telephone, provided the balance of the
20 prepaid account is greater than or equal to the monthly wireless surcharge.

1 b. The provider shall divide the total prepaid wireless telephone revenue earned and
2 received in the state a calendar month during the surcharge period by fifty dollars (\$50), and
3 multiply the quotient by the monthly wireless surcharge.

4 (c) Each wireless provider shall pay the full amount of the surcharge collected to the
5 commission within 30 days of the end of the month in which the surcharge was collected for
6 deposit in the fund. A wireless provider may not withhold any portion of the surcharge it
7 collects as reimbursement for the cost of billing and collecting the surcharge, or for any other
8 purpose. A wireless provider may include reasonable administrative costs as part of its grant
9 application under s. PSC 173.06.

10 **PSC 173.11 Fund administration. (1) DESIGNATION.** The commission may designate
11 a fund administrator.

12 **(2) ADMINISTRATIVE COSTS.** The commission may recover from the fund its reasonable
13 costs related to the administration of the fund.

14 **(3) DEPOSIT OF FUNDS.** The commission shall ensure that the amounts billed and
15 collected through the wireless surcharge and remitted to the commission are deposited in the
16 fund. All amounts deposited in the fund, including moneys earned as interest, shall remain in the
17 fund until disbursed as provided in this chapter.

18 **(4) REQUIRED DOCUMENTATION.** Wireless providers and local governments with
19 approved applications for grants under this chapter shall submit requests for reimbursement that
20 include all of the following:

21 (a) A paid invoice to document the actual cost of any approved purchase from a vendor
22 or supplier.

1 (b) Appropriate documentation, such as time slips for work performed by employees or
2 attendance rosters and training outlines for training performed, to verify that any internal costs
3 approved for reimbursement actually were incurred.

4 (c) Appropriate documentation to verify that local governments have complied with the
5 requirements under 47 CFR 20.18(j).

6 (d) Any other documentation that the commission may request to ensure that the moneys
7 disbursed by grant have been used in the manner proposed by the applicant and approved by the
8 commission.

9 **(5) DISBURSEMENTS.** (a) The commission shall make quarterly payments to wireless
10 providers and local governments that have approved applications for grants under this chapter.

11 (b) The amount disbursed each quarter to a wireless provider or local government shall
12 be the unpaid amount of the grant approved by the commission under s. PSC 173.09 for that
13 wireless provider or local government divided by the number of months remaining in the
14 reimbursement period times 3, but the commission may not disburse more than the amount for
15 which the wireless provider or local government has provided the documentation specified in
16 sub. (4).

17 (c)1. The commission shall begin payment of approved grant amounts to wireless
18 providers when the wireless provider has installed all necessary equipment, upgrades and
19 interconnecting telecommunications circuits to provide service to a designated public safety
20 answering point. If a wireless provider provides wireless 911 service to more than one
21 answering point in the state, the Commission may divide the approved grant amount due to that

1 wireless provider into appropriate increments, and pay the increments based upon installation of
2 service to each individual answering point.

3 2.a. Except as provided in subd. 2.b., the commission shall begin payment of approved
4 grant amounts to local governments when the enhanced wireless 911 telecommunications service
5 is implemented and made available to wireless telephone subscribers located within the
6 boundaries of that local government.

7 b. For grant applications that include a request for reimbursement for the purchase of
8 equipment described in s. PSC 173.07(3)(a)1., the commission may begin quarterly payments of
9 approved grant amounts related to that equipment after the start of the surcharge period and upon
10 receipt of the documentation in sub. (4)(a).

11 (d) The commission shall withhold payment of an approved grant to a local government
12 if that local government does not implement the wireless 911 service in its jurisdiction before the
13 end of the reimbursement period, and the local government shall repay to the fund any money it
14 already received from the fund.

15 (e) No wireless provider or local government may receive a total amount in grants that
16 exceeds the lesser of the estimated amount approved by the commission under s. PSC 173.09 for
17 that wireless provider or local government or the cost actually incurred and documented under
18 sub. (4).

19 (f) In the event that the fund has an insufficient balance to make all scheduled payments,
20 the commission may reschedule payments to ensure the solvency of the fund.

1 (g) In the case of a disbursement for a jointly operated wireless public safety answering
2 point, the commission shall apportion the disbursement of the grant in the manner specified
3 under s. PSC 173.07(2)(e).

4 (6) SECOND YEAR AND THIRD YEAR REVIEW. (a) The commission shall review the
5 amount of the wireless surcharge and the status of scheduled disbursements prior to the
6 thirteenth and twenty-fifth month of the surcharge period. To facilitate these reviews, the
7 commission may request from wireless providers an updated count of the number of wireless
8 telephone numbers billed on a recurring basis and the number of wireless telephone numbers
9 subject to a pre-paid service agreement.

10 (b) A wireless provider that did not provide service to customers in this state before
11 September 3, 2003, and did not otherwise apply for a grant under s. PSC 173.06, may apply for a
12 grant during the second year or third year review by the date the commission establishes in a
13 public notice. A wireless provider applying for a grant under this section shall comply with all
14 other requirements of this chapter.

15 (c) A wireless provider or local government may revise an application approved under
16 s. PSC 173.09 before the date on which the grant is disbursed.

17 (d) A county that is eligible to apply for a supplemental grant under s. PSC 173.08(1)
18 may apply for a supplemental grant under during the commission's second year or third year
19 review if it did not apply for a supplemental grant when it submitted its grant application under
20 s. PSC 173.07.

1 (e) The commission may decrease the wireless surcharge at any time. The commission
2 may increase the wireless surcharge, effective as of the thirteenth and twenty-fifth month of the
3 surcharge period, after completion of the second year and third year review.

4 (f) The Commission may reduce the amount of the wireless surcharge collected under s.
5 PSC 173.10(2)(b)2.b. during the final six months of the surcharge period to avoid collecting
6 money in excess of the needs of the fund.

7 (7) FINAL REVIEW. At the conclusion of the reimbursement period, the commission shall
8 distribute to wireless providers any funds collected but not disbursed or otherwise obligated.
9 Funds shall be distributed to wireless providers in proportion to the providers' respective
10 deposits into the fund. The commission shall withhold payment of this residual money until the
11 provider agrees to credit its current customer accounts the full amount of the residual payment.
12 If a provider does not agree, then that provider's distribution amount shall be proportionately
13 distributed to those providers that have agreed. Upon completion of all scheduled payments,
14 including the residual payments at the end of the reimbursement period, the commission shall
15 discontinue the fund.

16 (8) COLLECTION ACTION AUTHORIZED. The commission may bring an action to collect a
17 surcharge that is not paid by a customer. The customer's wireless provider is not liable for the
18 unpaid surcharge.

19 **PSC 173.12 Confidentiality of information.** (1) The commission shall withhold from
20 public inspection any information received under this subsection that would aid a competitor of a
21 wireless provider in competition with the wireless provider.

22 SECTION 2. EFFECTIVE DATES.

1 (1) This rule, except s. PSC 173.10(1)(b) and (2), shall take effect on the first day of the
2 second month following publication in the Wisconsin administrative register.

3 (2) Section PSC 173.10(1)(b) and (2) shall take effect on the first day of the eleventh
4 month following publication in the Wisconsin administrative register.