

**WEST VIRGINIA  
SECRETARY OF STATE  
JOE MANCHIN, III  
ADMINISTRATIVE LAW DIVISION**

Form #3 ■

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Public Service Commission TITLE NUMBER: 150

CITE AUTHORITY: West Virginia Code 24-8-2

AMENDMENT TO AN EXISTING RULE: YES  NO

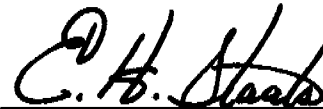
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 29

TITLE OF RULE BEING PROPOSED: Rules for Statewide Information and Referral 211  
Service

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature

# Public Service Commission

Richard E. Hitt, General Counsel



201 Brooks Street, P.O. Box 812  
Charleston, West Virginia 25323

Phone: (304) 340-0317  
FAX: (304) 340-0372

March 1, 2004

Judy Cooper, Director  
Administrative Law Division  
Secretary of State's Office  
Building 1, Suite 157K  
1900 Kanawha Blvd. E.  
Charleston, WV 25305-0771

Re: WV 211 Information and Referral System,  
150 C.S.R. 29

Dear Judy:

Enclosed are sixteen copies (one for you, fifteen for the Rule-making Review Committee) of the following: Statement of Circumstances; Fiscal Note; Legislative Questionnaire; public comments; the agency adopted Rule, and the Commission Order which explains the agency's disposition of the public comments.

If you have any questions or concerns, please do not hesitate to contact me.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Richard E. Hitt".

Richard E. Hitt  
General Counsel

REH/cbd  
Enclosure  
H:\CDODD\WPDOCS\RICKMISC\COOPER45.wpd

## **FISCAL NOTE**

**P.S.C.  
Series 29**

In the matter of a rulemaking to implement Rules for Statewide Information and Referral 211 Service, 150 CSR 29

### **I. OBJECTIVES OF THE RULE**

The purpose of this rulemaking has been to implement a statewide telephone information and referral service (211 service); define the duties of a 211 Collaborative; define the duties and terms of service of a 211 Provider; set forth a 211 Provider selection process to be followed by the 211 Collaborative; state the potential for future Commission review of the 211 system; and require that landline calls to 211 be permitted free of charge to the caller. Furthermore, the Rules require 211 calls to be answered within 180 days of the effective date of the Rules; set up a complaint procedure; require referral of emergency calls to 911; and provide for the development of a statewide 211 database.

### **II. COST OF IMPLEMENTING THE PROPOSED RULE**

There will be no significant implementation cost relating to this rulemaking for the State of West Virginia. The Commission does not anticipate additional costs to be incurred as a result of the rulemaking.

### **III. THE EFFECT THIS MEASURE WILL HAVE ON THE COSTS OR REVENUES OF STATE GOVERNMENT (Information required by fiscal notes for either house of the Legislature.)**

This rulemaking will have no effect on the costs or revenues of state government.

**IV. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS**

This rulemaking will have no significant economic impact on the state or its residents.

**DATE:** 3-4-04

**AGENCY:** Public Service  
Commission

**SIGNATURE OF  
AUTHORIZED REPRESENTATIVE**

  
\_\_\_\_\_  
Edward H. Staats, Chairman  
Public Service Commission

**STATEMENT OF CIRCUMSTANCES**  
**WHICH REQUIRE THE RULES**

To implement a 211 telephone information and referral service in West Virginia.

## **BRIEF SUMMARY OF RULES**

The attached legislative rules implement Senate Bill 436 which was passed effective June 6, 2003. The Rules implement a statewide telephone information and referral service (211 service); define the duties of a 211 Collaborative; define the duties and terms of service of a 211 Provider; set forth a 211 Provider selection process to be followed by the 211 Collaborative; state the potential for future Commission review of the 211 system; and require that landline calls to 211 be permitted free of charge to the caller. Furthermore, the Rules require 211 calls to be answered within 180 days of the effective date of the Rules; set up a complaint procedure; require referral of emergency calls to 911; and provide for the development of a statewide 211 database.

**QUESTIONNAIRE**

*(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)*

DATE: March 4, 2004

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Public Service Commission  
201 Brooks Stree, P.O. Box 812  
Charleston, West Virginia 25301/25323  
304.340.0300

LEGISLATIVE RULE TITLE: Rules for Statwide Information and Referral 211 Service

1. Authorizing statute(s) citation W. Va. Code 24-8-2.

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:  
Emergency Rules, notice of hearing/comment period filed on December 11, 2003

b. What other notice, including advertising, did you give of the hearing?  
Statewide publication of two comment periods and two separate hearings. The proposed emergency rules were the subject of the first hearing held on November 6, 2003. Whether the ~~emergency rules should be amended prior to final approval was the subject of the second~~ hearing held on January 30, 2004. Both hearings were preceded by comment periods. The Commission published the notices of hearing/comment period statewide and posted the notices of hearing/comment period on Commission internet website. The proposed emergency rules and the adopted emergency rules were also posted on the Commission's internet website.

c. Date of Public Hearing(s) *or* Public Comment Period ended:  
November 6, 2003 (first hearing ); January 30, 2004 (second hearing)

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached     X     No comments received

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

December 11, 2003

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Richard E. Hitt, General Counsel  
Public Service Commission  
201 Brooks Street, P.O. Box 812  
Charleston, West Virginia 25301/25323  
304.340.0317 phone  
304.340.0372 fax  
rhitt@psc.state.wv.us

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

same

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

not applicable

b. Date of hearing or comment period:

not applicable

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

not applicable

d. Attach findings and determinations and reasons:

Attached Not applicable

Attachment to Questionnaire  
Question No. 2.d.

The Public Service Commission received comments on the emergency rules from the following entities, through the entity's participation on a task force, or otherwise:

Public Service Commission Staff  
Verizon West Virginia Inc.  
The Public Service Commission's Consumer Advocate Division  
The West Virginia Enhanced 911 Council  
The West Virginia Wireless Coalition  
The Connecting Link/WV 211 Collaborative  
Lifebridge (f/k/a United Way of Greater Kanawha Valley)  
FiberNet, LLC  
Citizens Telecommunications Company of West Virginia, d/b/a Frontier  
Communications of West Virginia  
Criss-Cross, Inc./WV 211 Collaborative  
West Virginia University, Center on Aging/Link-Age  
Verizon Wireless  
The West Virginia Independent Group (representing the majority of other independent, incumbent local exchange carriers including Armstrong Telephone Company - Northern Division, Armstrong Telephone Company - West Virginia, Hardy Telecommunications, Inc., Spruce Knob Seneca Rocks Telephone, Inc., and West Side Telecommunications).  
A.V. Luttamus Communications, Inc. (Luttamus Communications)  
AT&T Wireless  
Cingular Wireless  
American Cellular

There were no comments filed following the adoption of emergency rules and preceding adoption of the legislative rules.

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 4<sup>th</sup> day of March, 2004.

GENERAL ORDER NO. 187.25

IN THE MATTER OF A PROCEEDING FOR THE ADOPTION  
OF RULES IMPLEMENTING AND GOVERNING THE WEST  
VIRGINIA 211 INFORMATION AND REFERRAL SYSTEM

**COMMISSION ORDER**

By this order, the Commission promulgates legislative rules governing the West Virginia 211 Information and Referral System.

**Background**

*Description of N11 Codes:*

N11 codes are abbreviated dialing arrangements that allow telephone users to connect with a particular node in the network by dialing only 3 digits. 911 is the most well-known N11 code in use in the United States. Since there are only 8 possible N11 codes -- 011 and 111 are not available -- they are considered a very scarce, and therefore very valuable, resource. Prior to 2000, only 3 N11 codes had been designated for use nationwide -- 911 (emergency services), 711 (telecommunications relay service for the deaf and hearing-impaired), and 311 (non-emergency police and other government services). In addition, 3 other N11 codes are widely used by telecommunications carriers around the country -- 611 and 811 (access to carrier repair and business offices) and 411 (access to directory assistance) -- but have not been officially designated by the FCC for nationwide use. See "Third Report and Order," In the Matter of the Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105, FCC 00-256 (Rel. July 31, 2000) (Third N11 Order) at ¶ 1.

*History and prior Commission proceeding, Case No. 01-0689-T-GI:*

On May 28, 1998, an alliance of I&R service providers (collectively, the 211 Collaborative) filed a petition with the FCC requesting designation of 211 nationwide as the N11 code for accessing community I&R services. The 211 Collaborative was created in 1997 to assist I&R service providers obtain designation of 211 nationwide. Prior to 1998, 211 had been used only to a limited extent. In 1997, the United Way of Metropolitan Atlanta became the first agency to use 211 to provide access to I&R services that link people to community-based resources, such as social services and charities. In 1999, Connecticut became the first state to use 211 statewide to provide access to I&R services. Since 1997, a number of states have considered implementing 211 as a statewide access code to community I&R services.

In the Third N11 Order, the FCC granted the 211 Collaborative's petition and designated 211 for use nationwide to provide access to community I&R services. In its order, the FCC gave states 5 years within which to implement 211. The FCC will reexamine use of 211 for community I&R services after that time (i.e., July 2005) to determine whether 211 is being utilized in the manner and to the extent anticipated. If 211 is not being used on a widespread basis by July 2005, the FCC indicated that it may designate 211 for other uses, or may make the code available for other services as well. Third N11 Order, at ¶ 23.

In the wake of the FCC's Third N11 Order, the West Virginia State Legislature on April 4, 2001, passed House Concurrent Resolution 18 (HCR 18). HCR 18 directed the Commission to designate 211 as the N11 code for access to community I&R services. In addition, HCR 18 directed the Commission to study the feasibility of implementing 211 statewide, in partnership with the state 211 collaborative, local telephone companies and 911 services. The Legislature required the Commission to present a report to it by July 1, 2002, regarding progress toward designating 211 as the 3-digit N11 code for accessing I&R services statewide.

On May 23, 2001, Commission Staff (Staff) petitioned the Commission to initiate a general investigation for the purpose of implementing HCR 18's directives. Staff's petition was docketed as Case No. 01-0689-T-GI. Staff recommended that the Commission establish a task force composed of representatives from local exchange telecommunications carriers, the WV 211 Collaborative, wireless carriers and 911 service providers, as well as members of Staff and the Commission's Consumer Advocate Division.

By Order entered June 19, 2001, the Commission initiated Case No. 01-0689-T-GI, established a task force to investigate the feasibility of implementing 211 as the N11 code for accessing community I&R services throughout the state, and directed the task force to

file a consensus report with the Commission on or before December 3, 2001. By order entered December 13, 2001, the Commission extended the task force's report deadline to February 1, 2002, in response to a November 30, 2001, motion filed on the task force's behalf.

In accordance with the Commission's June 19, 2001, Order, a task force ultimately consisting of representatives of the following was established: Staff; Verizon West Virginia Inc.; the Commission's Consumer Advocate Division; the West Virginia Enhanced 911 Council; the West Virginia Wireless Coalition; The Connecting Link/WV 211 Collaborative; Lifebridge (f/k/a United Way of Greater Kanawha Valley); FiberNet, LLC; Citizens Telecommunications Company of West Virginia, d/b/a Frontier Communications of West Virginia; Criss-Cross, Inc./WV 211 Collaborative; West Virginia University, Center on Aging/Link-Age; Verizon Wireless; and the West Virginia Independent Group (representing the majority of other independent, incumbent local exchange carriers).

On January 31, 2002, the task force filed its final report with the Commission. By order entered March 6, 2002, the Commission directed the task force to file a further report, by May 1, 2002, providing further information on the costs to implement 211.

On May 15, 2002, the task force filed its further report addressing the following items: (A) The Statewide 211 Model; (B) Implementation Of 211 Statewide; (C) Costs Of Implementing 211; (D) Provision of 211 Service; (E) Charges for Accessing 211; (F) Funding for 211; (G) Standards Applicable to a Statewide 211 Call Center; and (H) Selection of a State 211 Call Center Provider.

On June 26, 2002, the Commission filed its Final Report with the Legislature in satisfaction of the directives of House Concurrent Resolution 18.

*The current case, General Order 187.25:*

On March 8, 2003, the West Virginia Legislature passed Senate Bill No. 436, codified as Article 8 of Chapter 24 of the West Virginia Code, directing the West Virginia Public Service Commission to implement the West Virginia 211 information and referral system in accordance with the recommendations of the Commission's appointed task force as reported to the Legislature in 2002. Included in the Bill, is a requirement that the Commission propose rules for legislative promulgation pursuant to West Virginia Code Chapter 29A, Article 3. The Bill further notes that the Commission may file such rules as emergency rules.

By Order issued June 2, 2003, the Commission instituted this General Order No.

187.25; ordered service on all members of the task force that was active in Case No. 01-0689-T-GI, and appointed the same task force in this proceeding. Additionally, the Commission ordered statewide publication and invited other interested entities to participate in the task force if they desired. The Commission appointed Dannie Walker, Commission Staff Technical Analyst, to chair the task force. The Commission ordered the task force to file consensus rules on or before September 2, 2003. The Commission stated that following the filing of the task force's rules proposal, the Commission would schedule a public hearing on the proposed rules.

By Order issued August 8, 2003, the Commission extended the task force report and consensus rules deadline to September 23, 2003.

On September 23, 2003, the task force filed its report and consensus rules recommended by a majority of the task force. The report also included dissenters' comments and the majority's response to the dissenters' comments. The task force recommended that the Commission adopt the majority's rules as a new series of emergency rules, to be titled, "Statewide Information and Referral Service."

On September 25, 2003, the task force chairman filed two appendices to the task force report that were inadvertently omitted from the September 23, 2003, filing.

On October 7, 2003, counsel to the wireless carriers filed a letter clarifying that the wireless carriers were not part of the majority of the task force and did not join in the task force's recommendations contained in the "Further Procedural Matters" appearing at page 3 of the task force report. The wireless carriers concurred with the majority's request for a hearing. At the hearing, the wireless carriers wanted to argue the issue of whether the rules would be contrary to the state preemption provisions contained in Section 332(c) of the Federal Communications Act, 47 USC §332(c)(3).

By Order issued October 21, 2003, the Commission scheduled the initial hearing and required the parties to address the following issues:

- 1) Funding of the 211 system.
- 2) Description of the 211 system.
- 3) Objections raised by parties who did not join in the task force majority.

On November 5, 2003, Armstrong Telephone Company - Northern Division, Armstrong Telephone Company - West Virginia, Hardy Telecommunications, Inc., Spruce Knob Seneca Rocks Telephone, Inc., and West Side Telecommunications (the Independent Group), filed a statement in lieu of participation in the hearing. The Independent Group

stated that it supported the majority's recommendations.

A hearing was held on November 6, 2003. The Commission's Consumer Advocate Division (CAD), Commission Staff, the wireless carriers, Verizon Wireless, Verizon West Virginia, and Luttamus appeared at the hearing. Following appearances, CAD counsel provided a background of the proceeding. Thereafter, representatives of the West Virginia 211 Collaborative gave testimony regarding the Collaborative's efforts since 2000 to bring 211 information and referral service to the State.

Testimony at the first hearing was summarized in the Commission's December 11, 2003, Order and is not repeated here.

On November 25, 2003, the CAD, Commission Staff and the wireless carriers filed a Joint Stipulation and Agreement for Settlement. The stipulation recommended that the Commission adopt the task force's recommended rules, except that Sections 7.1., 7.3., and 7.4. be amended as provided in the stipulation. With these amendments, the wireless carriers withdrew all objections to the proposed rules. However, the objections of A.V. Luttamus remained outstanding.

On November 26, 2003, both CAD and Luttamus Communications filed briefs.

The arguments in the briefs were summarized in the December 11, 2003, Order and will not be repeated here.

On December 8, 2003, Trina Bartless, Chair of the West Virginia Collaborative, and Robin Smith, Facilitator of the West Virginia 211 Collaborative filed a letter reiterating that if the Benedum Foundation does not allocate the \$125,000 grant by December 31, 2003, the funds would no longer be available. The letter further stated that another source of funds had been identified. Fred Boothe, Commissioner for Children and Families with the WV Department of Health and Human Resources, along with Governor Wise, have committed to provide 211 funding, contingent upon collaborative support with the Benedum Foundation.

By Order issued December 11, 2003, the Commission adopted Rules for Statewide Information and Referral 211 Service. 150 CSR 29, as Commission proposed emergency Rules. The Commission found that promulgation as emergency rules was justified by the threatened expiration of the \$125,000 grant from the Benedum Foundation.

The Commission found that the Joint Stipulation and Agreement for Settlement filed November 25, 2003, represented a reasonable resolution of the wireless carriers' objections

to the majority's proposed rules.

As to the objections put forth by Lauttamus Communications, the Commission rejected that company's request for amendment of the majority's proposal. The Commission agreed with the majority that the 211 Collaborative is the appropriate entity to select the 211 Provider. Furthermore, the Commission found that the State Purchasing requirements regarding requests for proposals and bidding were not contemplated by the West Virginia Legislature when it delegated implementation of 211 service to this Commission and are not applicable. The Commission further found that more specificity regarding performance standards for the 211 Provider was not required. The 211 Collaborative was required to recommend to the Commission in 12 months whether the national 211 system standards should be adopted by this Commission.

Finally, the Commission provided a thirty-day comment period, set a hearing date of January 30, 2004, and stated that it would issue an order on Final Rules, within ninety (90) days of December 11, 2003.

On December 29, 2003, the West Virginia Secretary of State approved the emergency rules.

On January 30, 2004, the Commission held its second hearing to comply with *W. Va. Code* 29A-3-15 governing emergency rules, which required the Commission to notice a hearing within 30 days of the day the proposed rules were filed as emergency rules.

No members of the public appeared to comment. Hearing discussion was limited to confirmation that the 180-day deadline stated in Rule 7.5. of the emergency rules, requiring that calls to the 211 service be answered by an I&R specialist 24hours a day, runs from the date that final rules go into effect which will occur sometime after the Commission's order approving final rules. (Hearing Transcript II, p. 7-8). The Commission cannot control when the West Virginia Legislature takes up these rules on legislative rule review. In that light, it is possible that the parties and the State will operate under the emergency rules for some time. (Tr. II. p. 9-10).

## DISCUSSION

The emergency rules, Rules for Statewide Information and Referral 211 Service, 150 CSR 29, should now be approved as legislative rules. The rules will be in effect as emergency rules until such time as the West Virginia Legislature grants authority for promulgation by an act of the Legislature pursuant to *W. Va. Code* § 29A-3-13.

## FINDINGS OF FACT

1. An initial hearing and comment period resulted in the issuance of proposed emergency rules by order issued December 11, 2003.
2. The Commission established a second comment period and hearing date on the proposed emergency rules. No comments were filed and no members of the public appeared at the January 30, 2004, hearing.
3. Hearing discussion was limited to confirmation that the 180-day deadline stated in Rule 7.5. of the emergency rules, requiring that calls to the 211 service be answered by an I&R specialist 24 hours a day, runs from the date that final rules go into effect which will occur sometime after the Commission's order approving legislative rules. (Hearing Transcript II, p. 7-8). The Commission cannot control when the West Virginia Legislature takes up these rules on legislative rule review. In that light, it is possible that the parties and the State will operate under the emergency rules for some time. (Tr. II. p. 9-10).

## CONCLUSIONS OF LAW

1. Unlike most Commission rulemakings, the Legislature specifically directed that this particular rulemaking be subject to the legislative rule-making review process.
2. The Commission was required to file a notice of public hearing on the proposed rule within 30 days of the date the proposed rule was filed as an emergency rule. Furthermore, the Commission must file the proposed rule with the legislative rule-making review committee within 90 days of the date the proposed rule was filed as an emergency rule. *W.Va. Code* § 29A-3-15.
3. The emergency rules, Rules for Statewide Information and Referral 211 Service, 150 CSR 29, which were also noticed as proposed rules, should now be approved and submitted to the Legislature pursuant to *W. Va. Code* §§ 29A-3-9 and 29A-3-15.
4. The rules issued on December 11, 2003, will be in effect as emergency rules until such time as the West Virginia Legislature grants authority for promulgation of final rules by an act of the Legislature pursuant to *W.Va. Code* § 29A-3-13.

## ORDER

IT IS THEREFORE ORDERED that the Rules for Statewide Information and Referral 211 Service, 150 CSR 29, attached hereto as Attachment A, are hereby approved


to become effective when authority for promulgation is granted by an act of the Legislature pursuant to *W.Va. Code* § 29A-3-13.

IT IS FURTHER ORDERED that until the Legislature acts as described above, or until the emergency rules expire, the previously promulgated emergency Rules for Statewide Information and Referral 211 Service, 150 CSR 29, remain in effect.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission file a copy of the text of the finally approved rules with the offices of the Secretary of State and the Legislative Rule-making Review Committee together with the forms required by those offices.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall serve a copy of this order by First Class United States Mail on all task force members and upon other parties who have filed comments in this proceeding, and upon Commission Staff by hand delivery.

A True Copy, Teste:

  
Sandra Squire  
Executive Secretary

JML/ljm  
go18725cc.wpd

TITLE 150  
LEGISLATIVE RULE  
PUBLIC SERVICE COMMISSION

SERIES 29

RULES FOR STATEWIDE TELEPHONE INFORMATION  
AND REFERRAL 211 SERVICE

§150-29-1. General.

1.1. Scope - These rules and regulations govern the establishment and operation of a statewide "211" Information and Referral call system in West Virginia.

1.2. Authority: W. Va. Code §§24-1-7, 24-2-1, 24-2-7, 24-8-1, 24-8-2 and 29A-3-15.

1.3. Filing Date: March 4, 2004.

1.4. Effective Date: When authority for promulgation is granted by an act of the Legislature pursuant to W. Va. Code § 29A-3-13.

§150-29-2. Definitions.

2.1. These rules adopt, and incorporate herein, the definitions of terms set forth in Section 1.7 of the Commission's Rules and Regulations for the Government of Telephone Utilities, C.S.R. §150-6-1.7.

2.2. "AIRS" - Alliance for Information and Referral Systems. A national accrediting and professional oversight organization regulating the provision of I & R services and the training and operational requirements applicable to I & R providers.

2.3. "I & R" - Information and referral.

2.4. "I & R provider" - An individual or entity that furnishes, upon request and without charge to the caller, I & R services to individuals regarding community-based resources, such as social services and charities that provide housing, medical care, human services, financial assistance, and other social services that are available in the area served

by the I & R provider. I & R providers furnish a comprehensive informational link between individuals seeking the afore-enumerated services and appropriate providers of such services.

2.5. "I & R specialist" - An individual employed by an I & R provider that provides I & R services directly to callers.

2.6. "Statewide 211 system" - The system for providing access, via the 211 dialing arrangement, to a single call center, or functional equivalent, that provides callers with centralized I & R services, including, as appropriate, links to regionalized I & R services statewide. The statewide 211 system shall be implemented by utilizing a single, toll-free 8XX number, with all telecommunications carriers translating and routing 211 calls to the 8XX number assigned to the statewide 211 call center.

2.7. "211" - The three digit, abbreviated dialing arrangement designated by the Federal Communications Commission for use as the universal access number for contacting local, regional, or statewide I & R service providers.

2.8. "211 Collaborative" - A private, non-governmental West Virginia incorporated association whose members are drawn from local I & R providers, including call centers, and other stakeholders (*e.g.*, social services and charitable organizations, governmental agencies and educational institutions) in the state.

2.9. "211 Provider" - A private, non-governmental entity, either stand-alone or part of a larger organization, selected by the 211 Collaborative and having responsibility for the operation and management of the statewide 211 system. The 211 Provider shall provide I & R services to members of the public who dial 211. Any I & R provider may petition the 211 Collaborative to be considered to be chosen the 211 Provider in West Virginia.

#### §150-29-3. The 211 Collaborative.

3.1. The 211 Collaborative shall provide direction and oversight over the operation of the statewide 211 system established in West Virginia in accordance with the May 15, 2002, task force report in WVPSC Case No. 01-0689-T-GI and these Rules.

3.2. The 211 Collaborative shall include I & R providers, including call centers, representatives of social services and charitable organizations, governmental agencies, public service answering points, educational institutions, and the public. In addition, the 211 Collaborative shall include, at all times, one (1) non-voting representative of the 211 Provider.

3.2.a. The 211 Collaborative shall maintain with the Commission, at all times, a list of its members, either in written form or in electronic format, which shall be revised as the 211 Collaborative's membership changes.

3.2.b. The 211 Collaborative shall maintain with the Commission, at all times, a current copy of the 211 Collaborative's articles of incorporation and by-laws, either in written form or in electronic format.

3.3. The 211 Collaborative shall ensure that the 211 Provider adheres to national standards established by AIRS regarding I & R operations, program development and the training and conduct of I & R specialists.

3.4. Within sixty (60) days of the effective date of these Rules, the 211 Collaborative shall prepare written procedures governing the 211 Collaborative's monitoring and oversight of the statewide 211 system's operation, as well as written procedures governing the process and standards for selecting the 211 Provider.

3.4.a. The 211 Collaborative shall maintain with the Commission, at all times, a current copy of the written procedures set forth in Section 3.4 of these Rules, either in written form or in electronic format.

3.5. All documents and other materials required to be maintained with the Commission pursuant to Section 3 of these Rules, shall be accessible on the Commission's official Internet website.

3.6. The 211 Collaborative shall reasonably assist the 211 Provider in complying with the requirements of these Rules.

§150-29-4. The 211 Provider.

4.1. Selection of an Initial 211 Provider.

4.1.a. The 211 Collaborative shall submit its written decision, together with supporting documents, selecting an initial 211 Provider to the Commission within one-hundred twenty (120) days of the effective date of these Rules. No Commission approval of the 211 Collaborative's decision is required for the 211 Provider to begin providing service.

4.1.b. The Commission shall cause notice of the 211 Collaborative's decision selecting an initial 211 Provider to be published, statewide within ten (10) days following

receipt of such decision and supporting documents.

#### 4.2. Term of 211 Provider; Removal of 211 Provider.

4.2.a. The 211 Collaborative may, in its discretion, fix or otherwise limit the 211 Provider's term of service.

4.2.b. The 211 Collaborative may, for cause, remove the 211 Provider at any time during the 211 Provider's term of service. "Cause" shall be construed to mean: (1) the 211 Provider's material non-performance of any obligation established as part of its selection by the 211 Collaborative; (2) the 211 Provider's violation of any Commission rule, regulation or order relating to the operation of the statewide 211 system; or (3) malfeasance or fraud on the 211 Provider's part. The 211 Collaborative shall submit its written decision removing the 211 Provider to the Commission within ten (10) days of such decision.

4.2.c. In the event the 211 Provider's term of service expires, or if the 211 Provider is removed pursuant to Section 4.2 of these Rules, the 211 Collaborative shall take action to designate a successor 211 Provider prior to the expiration of the current 211 Provider's term or effective date of the 211 Provider's removal, if possible.

4.2.d. If the 211 Provider determines to cease operating the statewide 211 system, the 211 Provider shall provide written notice to the 211 Collaborative and the Commission at least ninety (90) calendar days prior to its intended date of cessation of operation as the 211 Provider.

#### 4.3. Selection of Subsequent 211 Providers.

4.3.a. In the event the 211 Provider's term of service expires, or if the 211 Provider is removed pursuant to Section 4.2 of these Rules, or if the current 211 Provider ceases to operate the statewide 211 system for any reason, the 211 Collaborative shall solicit and review applications from qualified I & R providers, including call centers, seeking to operate the statewide 211 system.

4.3.b. The 211 Collaborative shall provide public notice by publication at least once in a newspaper, duly qualified by the Secretary of State, published and of general circulation throughout the state, and by other appropriate means, advising I & R providers that the 211 Collaborative is soliciting applications for selection of a 211 Provider.

4.3.c. The 211 Collaborative shall submit its written decision selecting a subsequent 211 Provider, together with supporting documents, to the Commission within

thirty (30) days of such decision.

4.3.d. The Commission shall cause notice of the 211 Collaborative's decision selecting a subsequent 211 Provider to be published, statewide, within ten (10) days following receipt of such decision and supporting documents.

4.4. The 211 Collaborative shall have final operational authority over changes in the 211 Provider, and shall submit to the Commission a plan for continuation of the statewide 211 system under the circumstances set forth in Section 4.2 of these Rules.

4.5. The Commission, or its designated representative, shall mediate any dispute involving the selection or removal of the 211 Provider, upon the filing of a petition requesting mediation with the Commission by either the 211 Collaborative, the 211 Provider or an aggrieved applicant for selection as the 211 Provider.

4.6. The 211 Provider shall not charge a fee to I & R providers, nor to community-based resources, such as social services and charities that provide housing, medical care, human services, financial assistance, or other social services, for participation in the statewide 211 system.

#### §150-29-5. Standards Applicable to the 211 Provider.

5.1. Operation of the statewide 211 system shall be the responsibility of the 211 Provider.

5.2. The 211 Provider shall be responsible for obtaining funding, implementing procedures, and meeting target dates for commencing its operation of the statewide 211 system.

5.3. Within twelve (12) months following the promulgation of these Rules, the 211 Collaborative shall file a written recommendation with the Commission, regarding whether national standards established by AIRS should be adopted by the Commission and made applicable to the 211 Provider. AIRS standards include criteria for I & R providers, as well as criteria for individual I & R specialists.

#### §150-29-6. Review of the Statewide 211 System.

6.1. The Commission may, at its discretion, periodically review the 211 Provider's operations in implementing a statewide 211 system. At such time, the Commission may utilize its staff or may contract the review to an organization familiar with I & R operations.

6.2. The Commission may, by order, fix reasonable acts, practices, services or regulations relating to the provision of 211 statewide or the operations of the 211 Provider: Provided, however, that the foregoing shall not be construed to authorize Commission regulation of I & R providers or otherwise subject I & R providers to Commission jurisdiction.

§150-29-7. Charges, Availability and Participation.

7.1. Calls from landline telephones to 211 shall be free of charge to the caller, including calls made over public and semipublic telephones. Wireless carriers may elect to charge for calls over their systems to 211. Inmate facilities may block access to 211 by inmates. For purposes of access charges and other intercarrier compensation associated with the completion of 211 calls within the state, 211 calls shall be treated in the same manner as all other end user calls are treated.

7.2. All telephone companies providing telecommunications within the state shall reasonably cooperate in implementing any non-recurring network modifications (*e.g.*, central office switch translations) required in order for end users to access the statewide 211 system. Providers of Telecommunications Relay Service, and all providers of public and semipublic telephone service, shall likewise reasonably cooperate in implementing the statewide 211 system.

7.3. Initial capital and non-recurring costs associated with implementing network modifications required in order for end users to access the statewide 211 system, including central office switch translations, shall be absorbed by participating telephone companies and other entities set forth in Section 7.2 above: Provided, however, that telephone companies and other entities set forth in Section 7.2 may petition the Commission to recover such costs, which the Commission may grant upon a showing of good cause. Provided further, that wireless carriers are not required to obtain Commission approval to recover such costs.

7.4. Additional costs associated with participating in the statewide 211 system not described in Sections 7.2 and 7.3 of these Rules, may not be imposed by landline carriers absent a lawful order of the Commission.

7.5. Within one-hundred eighty (180) days of the effective date of these rules, calls to the statewide 211 system shall be answered by an I & R specialist, in a timely manner, on a 24-hours per day, 7-days per week basis.

§150-29-8. Complaints.

8.1. Complaint Log. The 211 Provider shall keep a complaint log of consumer-reported problems concerning the operations of 211.

8.1.a. The complaint log shall include the complainant's name, address and telephone number, the date and nature of the complaint, the date the complaint is considered resolved, and the disposition of the complaint. Such complaints shall be resolved by the 211 Provider and reported in the complaint log.

8.1.b. Copies of the log shall be sent to Commission Staff and the 211 Collaborative at least quarterly.

8.1.c. The complaint log shall be maintained in electronic format suitable for transmittal as an email attachment or via other electronic means, consistent with federal or state privacy laws.

8.2. Informal complaints regarding the statewide 211 system, filed with the Commission pursuant to C.S.R. §150-1-6.1, shall be referred to the 211 Provider for response and resolution in accordance with the requirements of said rule.

8.3. Formal complaints regarding the statewide 211 system, filed with the Commission pursuant to C.S.R. §150-1-6.2, shall be dealt with in accordance with established Commission rules, regulations and orders, including the requirement of an order from the Commission to the 211 Provider to respond to the Commission within ten (10) working days of receipt of a formal complaint.

8.4. The 211 Collaborative shall conduct a quarterly review of formal and informal complaints regarding the provision of 211 statewide and shall take appropriate action to correct legitimate issues identified from the complaints. The 211 Collaborative shall also consider suggestions regarding the statewide 211 system submitted to it by any interested party as part of the 211 Collaborative's quarterly review.

8.5. The 211 Collaborative shall cooperate with representatives of the West Virginia Enhanced 9-1-1 Council regarding matters relating to the statewide 211 system that are of concern to the Enhanced 9-1-1 Council's members.

§150-29-9. 911 Referral and Phone Directories.

9.1. All emergency calls received by the 211 Provider shall be transferred to the

appropriate 911 Public Safety Answering Point (PSAP) as expeditiously as possible, unless such transfer would result in loss of the call or would otherwise unduly jeopardize the physical or mental health, or the safety, of the caller.

9.1.a. In the event an emergency call is not transferred to 911, the 211 Provider shall immediately contact the appropriate 911 PSAP and seek advice regarding how to deal with the situation.

9.2. In each telephone directory provided to West Virginia telephone service subscribers as a primary directory, a listing for 211 shall appear on the directory page which contains non-emergency numbers listings for emergency services providers.

#### §150-29-10. Statewide 211 Database.

10.1. As part of its duties, the 211 Provider shall be responsible for creating, maintaining and updating an electronic database of all community-based social and other services providers within the state. The 211 Provider shall consult with the 211 Collaborative in fulfilling its duties under this Section.

10.2. The 211 Collaborative shall establish procedures whereby community-based social and other services providers may directly submit information to the 211 Provider for inclusion in the database referred to in Section 10.1 of these Rules.

10.3. The database shall be updated by the 211 Provider at least semi-annually. The 211 Collaborative may, in consultation with the 211 Provider, require the database to be updated more frequently.

10.4. The statewide 211 system's database created, maintained and updated in accordance with this Section shall, at all times, be considered the exclusive intellectual property of the 211 Collaborative. Upon any change in 211 Provider, as set forth in Section 4 of these Rules, the statewide 211 system's database shall be returned to the 211 Collaborative.

10.5. The 211 Collaborative shall keep the Commission apprized of all decisions or actions undertaken pursuant to Sections 10.1 through 10.4 of these Rules.

#### § 150-29-11. Severability Clause.

11.1. If any provision of these Rules, or the application thereof to any person or

circumstances, is held invalid, the remainder of these Rules and the application of such Rules to other persons or circumstances shall not be affected thereby.

