

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA

In the matter of rules governing E-911 fees, )  
150 C.S.R. Series 25, to provide further  
guidance regarding E-911 fee requirements

G.O. 187.52

COMMENTS OF TIME WARNER CABLE  
INFORMATION SERVICES (WEST VIRGINIA), LLC

COMES NOW Time Warner Cable Information Services (West Virginia), LLC ("Charter") and pursuant to the Commission Order issued in this proceeding on March 8, 2018, respectfully submits these comments to the West Virginia Public Service Commission (the "Commission").

In every odd year, under the Commission's Emergency Telephone Service Rule 11 and W. Va. Code § 24-6-6b(c), the Commission conducts an audit of the wireless enhanced 911 ("E-911") fee, determining the weighted average of all of the E-911 fees imposed by the counties that have adopted E-911 surcharges. If the weighted average of the counties' fees exceeds the statutory wireless E-911 fee,<sup>1</sup> the Commission raises the wireless E-911 fee (but never by more than twenty-five percent), effective July 1<sup>st</sup> of the respecification year.

In the Order, the Commission said that because the number of landline subscribers has recently trended downward, the weighted average of the counties' fees have increased.<sup>2</sup> This increase has caused the wireless E-911 fee to increase, and the Commission said it anticipates future wireless E-911 increases.<sup>3</sup>

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<sup>1</sup> See W. Va. Code § 24-6-6b(b) (The wireless E-911 fee is \$3 per month for each valid retail CMRS subscription.).

<sup>2</sup> Commission Order, p. 1.

<sup>3</sup> *Id.*

Further, the Commission explained that last year, during the most recent respecification year, local exchange carriers ("LECs"), Staff and CMRS providers faced difficulty in reporting, recalculating and implementing the new wireless E-911 fee because of timing issues under the governing wireless E-911 rules.<sup>4</sup> Therefore, the Commission opened this proceeding to amend the rules and to ameliorate those issues.

Charter is supportive of the Commission's efforts to improve its processes so that all parties required to act under the Commission's Emergency Telephone Service Rule are able to fulfill their obligations within a reasonable time and without undue burden. As the Commission appropriately identified, the present wireless E-911 rules are insufficient from a timing perspective. Charter agrees with the Commission that LECs should have more time to collect and report data, and agrees with the proposal to extend from February 15<sup>th</sup> to April 7<sup>th</sup>, the time for which LECs must submit their line counts to the Commission. However, Charter urges the Commission to reconsider the proposal at Rules 10.1 and 11.2 to require LECs to submit their line counts determined as of *March 1<sup>st</sup>* of each year by the April 7<sup>th</sup> deadline. Charter recommends that the Commission permit carriers to report line counts that are determined as of *January 1<sup>st</sup>* of each year, as the rules presently provide. This would effectively give LECs two additional months to collect and report line count data. Moreover, because LECs have year-end/year-begin line counts readily available, and are more likely to track line counts from year-end/year-begin dates, it would be less burdensome if the Commission were to continue to require LECs to report line counts as of January 1<sup>st</sup>. In addition, because a LEC's line count remains relatively stable, the difference in the carrier's line count from January 1<sup>st</sup> to March 1<sup>st</sup> is

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negligible. So, any benefit to the Commission in receiving slightly newer information is not outweighed by the burden placed on LECs to compile such information.

#### CONCLUSION

For the foregoing reasons, Charter respectfully urges the Commission to not implement its proposal to require LECs to report their lines counts as of March 1<sup>st</sup>, and to instead retain the requirement to report such information as of January 1<sup>st</sup>

Respectfully submitted this 9<sup>th</sup> day of April, 2018.

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

**GO 187.52**

**In the matter of E911 fees, 150 C.S.R. 25, to provide further guidance regarding E911 fee requirements**

**STAFF'S INITIAL COMMENTS**

By Commission Order entered March 8, 2018, the Commission initiated a proceeding, docketed as General Order No. 187.52, In the matter of rules Governing E-911 Fees, 150 C.S.R. Series 25, to provide further guidance regarding E-911 fee requirements. The Commission explained that on every odd year, pursuant to the Commission's Rules Governing Emergency Telephone Service (Emergency Telephone Service Rules), 150 C.S.R. Series 25, and as directed by West Virginia Code §24-6-6b(c), the Commission conducts an audit of the wireless enhanced 911 (E-911) fee. The Commission recalculates the E-911 fee so that it is the weighted average rounded to the nearest penny, as of the first day of March of the respecification year, of all of the E-911 fees imposed by the Counties which have adopted an E-911 ordinance. If the weighted average of the E-911 fee exceeds the \$3 per month statutory wireless E-911 fee, the wireless E-911 fee must be increased to the weighted average of the E-911 fees but never increased more than twenty-five percent of the wireless E-911 fees at the beginning of the respecification year.

Deputy Director Randall R. Short, Utilities Division, Carrier and Consumer Operations Section and this Staff Attorney have reviewed the Commission proposed rules in General Order No. 187.52, Rules Governing E-911 Fees, 150 C.S.R. Series 25, to provide further guidance regarding E-911 fee requirements. Utilities Division and Legal Staff have only one recommended change. The Staff recommends the second sentence in Proposed Rule 11.3 not be included in the Commission final rules in General Order No. 187.52, Rules Governing E-911 Fees, 150 C.S.R. Series 25. In the Commission Order of March 8, 2018, the proposed rule states as follows:

11.3. Commission Staff shall make its calculations and recommendation to the Commission regarding whether the E911 fee needs to be respecified no later than May 7 of the respecification year. The Staff recommendation will be provided to each registered CMRS provider.

West Virginia Code §24-6-6b(c) states "Beginning in the year [1997], and every two years thereafter, the Public Service Commission shall conduct an audit of the wireless enhanced 911 fee and shall recalculate the fee." Past practice is the Commission has directed Staff (which may include both formal case staff personnel and advisory staff) to internally review the line data information received by the Commission. The audit and calculation are conducted internally and may be updated until the issuance of the order. The proposed rule provides for a new step, Commission Staff providing the Commission recommendation/workpapers prepared on May 7<sup>th</sup> to each registered CMRS provider. This step is unnecessary and may possibly be confusing to CMRS providers. Furthermore there is nothing in the statute that prohibits

the Commission from finalizing its calculations after the May 7<sup>th</sup> audit and calculation is performed up through the time the Commission issues an order, if new information is received such as a late provider or there is a mistake either in reported information or in the calculation. There have been late filers in the past.

Under the direction of the Commission, Staff has been performing the audit and calculation information as required by the statute for the Commission. Last year was the first time since West Virginia Code §24-6-6b(c) was enacted that the data indicated the Commission should change the wireless E-911 fee. The Commission entered General Order No. 187.50 on June 22, 2017 directing that the Commission was increasing the wireless E-911 fee from \$3 to \$3.34 per month, per subscriber, to become effective July 1, 2017. Attached to that Order was Attachment A, "2017 Calculation of Wireline E911 Fee State-Wide Weighted Average". In that proceeding the Commission issued the June 22, 2017 Order initiating and closing the docket in one order. There were no parties to the proceeding and no public filings by Commission Staff in advance of the order. This process is very similar to the long established process the Commission uses for its General Order proceedings related to the interest to be paid on customer deposits for telephone utilities, as well as other regulated utilities that are required to pay interest on customer deposits. Research of the most recent three year proceedings for telephone customer deposits for telephone utilities (*See generally*, 2018 General Order 187.51 entered January 24, 2018; 2017 General Order 187.49 entered March 17, 2017; and General Order 187.47 entered February 8, 2016) reveals that all of these proceedings by

the Commission were initiated and closed by the same Commission order. Similar to the Commission's first order in 2017 for E-911 fee respecification, there were no parties to the proceeding and no public filings by Commission Staff in advance of the order.

For this type of calculation proceeding, the Staff believes the Commission established process of entering one order that initiates the proceeding, including as an attachment the Commission approved calculation, is stream-lined and efficient. The Staff does not recommend the internal workpapers be simultaneously sent to the Commission and to the CMRS providers prior to the issuance of an order. This would require a separate order initiating the proceeding and the workpapers may prematurely be construed as the Commission approved calculation for the respecification of the wireless E-911 fee. For these reasons, Staff recommends the second sentence of Proposed Rule 11.3 not be included in the Commission final rules.

The Staff has no additional recommendations to the Commission's proposed E-911 rules.

Respectfully submitted this the 9th day of April 2018.

**PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON**

**GO 187.52**

**In the matter of E911 fees, 150 C.S.R. 25, to provide further guidance regarding E911 fee requirements**

**STAFF'S REPLY COMMENTS**

By Commission Order entered March 8, 2018, the Commission initiated a proceeding, docketed as General Order No. 187.52, In the matter of rules Governing E911 Fees, 150 C.S.R. Series 25, to provide further guidance regarding E-911 fee requirements. The Commission explained that on every odd year, pursuant to the Commission's Rules Governing Emergency Telephone Service (Emergency Telephone Service Rules), 150 C.S.R. Series 25, and as directed by West Virginia Code §24-6-6b(c), the Commission conducts an audit of the wireless enhanced 911(E-911) fee. The Commission recalculates the E-911 fee so that it is the weighted average rounded to the nearest penny, as of the first day of March of the respecification year, of all of the E-911 fees imposed by the Counties which have adopted an E-911 ordinance. If the weighted average of the E-911 fee exceeds the \$3 per month statutory wireless E-911 fee, the wireless E-911 fee must be increased to the weighted average of the E-911 fees but never increased more than twenty-five percent of the wireless E-911 fees at the beginning of the respecification year.

On April 9, 2018, Staff filed its Initial Comments. In its comments, Deputy Director Randall R. Short, Utilities Division, Carrier and Consumer Operations Section and this Staff had only one recommended change. The Staff recommends the second

sentence in Proposed Rule 11.3 not be included in the Commission final rules in General Order No. 187.52, Rules Governing E-911 Fees, 150 C.S.R. Series 25. In the Commission Order of March 8, 2018, the proposed rule states as<sub>3</sub> follows:

11.3. Commission Staff shall make its calculations and recommendation to the Commission regarding whether the E911 fee needs to be respecified no later than May 7 of the respecification year. The Staff recommendation will be provided to each registered CMRS provider.

West Virginia Code §24-6-6b(c) states "Beginning in the year [1997], and every two years thereafter, the Public Service Commission shall conduct an audit of the wireless enhanced 911 fee and shall recalculate the fee." Past practice is the Commission has directed Staff (which may include both formal case staff personnel and advisory staff) to internally review the line data information received by the Commission. The audit and calculation are conducted internally and may be updated until the issuance of the order. The proposed rule provides for a new step, Commission Staff providing the Commission recommendation/workpapers prepared on May 7<sup>th</sup> to each registered CMRS provider. This step is unnecessary and may possibly be confusing to CMRS providers. Furthermore there is nothing in the statute that prohibits the Commission from finalizing its calculations after the May 7<sup>th</sup> audit and calculation is performed up through the time the Commission issues an order, if new information is received such as a late provider or there is a mistake either in reported information or in the calculation. There have been late filers in the past.

On April 9, 2018, Time Warner Cable Information Services, LLC, (Time Warner) filed its Initial Comments. Time Warner urged the Commission to reconsider the proposal at Rules 10.1 and 11.2 to require LECs to submit their line counts determined as

of *March 1st* of each year by the April 7th deadline. Time Warner recommended that the Commission permit carriers to report line counts that are determined as of *January 1<sup>st</sup>* of each year, as the rules presently provide. This would effectively give LECs two additional months to collect and report line count data. Moreover, because LECs have yearend/year-begin line counts readily available, and are more likely to track line counts from yearend/ year-begin dates, it would be less burdensome if the Commission were to continue to require LECs to report line counts as of January 1.

Commission Staff has reviewed the Initial Comments of Time Warner and has no position on the arguments put forth regarding a change in the line count reporting deadline. Commission Staff had no further additional comments or positions, and recommends the Commission adopt the Staff position articulated in its April 9, 2018, Initial Comments.

Respectfully submitted this the 9th day of May 2018.

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