WEST VIRGINIA CODE: §24-6-6b

§24-6-6b. Wireless enhanced 911 fee; public safety wireless fee; wireless tower fee.

(a) All CMRS providers as defined in §24-6-2 of this code shall, on a monthly basis or otherwise for good cause and as directed by order of the Public Service Commission, collect from each of their in-state two-way service subscribers a wireless enhanced 911 fee, a public safety fee, and a wireless tower fee. As used in this section "in-state two-way service subscriber" has the same meaning as that set forth in the rules of the Public Service Commission. The CMRS providers shall, on a monthly basis, after retaining a billing fee of three percent of the sum of the wireless enhanced 911 fee, the public safety fee, and the wireless tower fee, send moneys collected from the wireless enhanced 911 fee, the public safety fee, and the wireless tower fee to the Public Service Commission.

(b) The wireless enhanced 911 fee is $3.47 per month for each valid in-state two-way service subscriber, as that term is defined by Public Service Commission rules.

Beginning in the year 2021, and every two years thereafter, the Public Service Commission shall conduct a survey of the enhanced 911 fees imposed by counties and shall recalculate the wireless enhanced 911 fee so that increases or decreases by the same percentage as the change in the weighted average rounded to the nearest penny, as of March 1 of the respecification year, of all of the enhanced 911 fees imposed by the counties which have adopted an enhanced 911 ordinance: *Provided,* That the wireless enhanced 911 fee may never be increased by more than 25 percent of its value at the beginning of the respecification year: *Provided, however,* That the fee may never be less than the amount set in subsection (b) of this section.

(c) The Public Service Commission shall, on a quarterly and approximately evenly staggered basis, disburse wireless enhanced 911 fee revenue in the following manner:

(1) Each county that does not have a 911 ordinance in effect as of the original effective date of this section in the year 1997, or has enacted a 911 ordinance within the five years prior to the original effective date of this section in the year 1997, shall receive eight and one-half tenths of one percent of the fee revenues received by the Public Service Commission: *Provided,* That after the effective date of this section, in the year 2005, when two or more counties consolidate into one county to provide government services, the consolidated county shall receive one percent of the fee revenues received by the Public Service Commission for itself and for each county merged into the consolidated county. Each county shall receive eight and one-half tenths of one percent of the remainder of the wireless enhanced 911 fee revenues received by the Public Service Commission: *Provided, however,* That after the effective date of this section, in the year 2005, when two or more counties consolidate into one county to provide government services, the consolidated county shall receive one percent of the fee revenues received by the Public Service Commission for itself and for each county merged into the consolidated county. Then, from any moneys remaining,

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each county shall receive a pro rata portion of that remainder based on that county's population as determined in the most recent decennial census as a percentage of the state total population. The Public Service Commission shall recalculate the county disbursement percentages on a yearly basis, with the changes effective on July 1, and using data as of the preceding March 1. The public utilities which normally provide local exchange telecommunications service by means of lines, wires, cables, optical fibers, or by other means extended to subscriber premises shall supply the data to the Public Service Commission on a county specific basis no later than June 1 of each year;

(2) Counties which have an enhanced 911 ordinance in effect shall receive their share of the wireless enhanced 911 fee revenue for use in the same manner as the enhanced 911 fee revenues received by those counties pursuant to their enhanced 911 ordinances;

(3) The Public Service Commission shall deposit the wireless enhanced 911 fee revenue for each county which does not have an enhanced 911 ordinance in effect into an escrow account which it has established for that county. Any county with an escrow account may, immediately upon adopting an enhanced 911 ordinance, receive the moneys which have accumulated in the escrow account for use as specified in subdivision (2) of this subsection: *Provided,* That a county that adopts a 911 ordinance after the original effective date of this section in the year 1997, or has adopted a 911 ordinance within five years of the original effective date of this section in the year 1997, shall continue to receive one percent of the total 911 fee revenue for a period of five years following the adoption of the ordinance. Thereafter, each county shall receive that county's eight and one-half tenths of one percent of the remaining fee revenue, plus that county's additional pro rata portion of the fee revenues then remaining, based on that county's population as determined in the most recent decennial census as a percentage of the state total population: *Provided, however,* That every five years from the year 1997, all fee revenue residing in escrow accounts shall be disbursed on the pro rata basis specified in subdivision (1) of this subsection, except that data for counties without enhanced 911 ordinances in effect shall be omitted from the calculation and all escrow accounts shall begin again with a zero balance. From any funds distributed to a county pursuant to this section, a total of three percent shall be set aside in a special fund to be used exclusively for the purchase of equipment that will provide information regarding the x and y coordinates of persons who call an emergency telephone system through a commercial mobile radio service: *Provided further*, That upon purchase of the necessary equipment, the special fund shall be dissolved and any surplus shall be used for general operation of the emergency telephone system as may otherwise be provided by law.

(d) Beginning July 1, 2020, CMRS providers shall collect the public safety fee from each in-state two-way service subscriber. The public safety fee shall be 29 cents per month and will be shown as a separate fee on the subscriber's bill. On a monthly basis, the Public Service Commission will distribute 10 cents of the public safety fee to the West Virginia State Police to be used for equipment upgrades for improving and integrating their communication efforts with those of the enhanced 911 systems, and the Public Service Commission will deposit 19 cents of the public safety fee in a special fund established by the Division of

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Homeland Security and Emergency Management to be used solely for the construction, maintenance, and upgrades of the West Virginia Interoperable Radio Project and any other costs associated with establishing and maintaining the infrastructure of the system. Any funds remaining in this fund at the end of the fiscal year shall automatically be reappropriated for the following year.

(e) Beginning July 1, 2020, CMRS providers shall collect the wireless tower fee from each in-state two-way service subscriber. The wireless tower fee shall be 8 cents per month and will be shown as a separate fee on the subscriber's bill. On a monthly basis, the commission shall distribute the wireless tower fee to a fund administered by the Public Service Commission, entitled the Wireless Tower Access Assistance Fund, to subsidize the construction of wireless towers. The moneys shall be expended in accordance with an enhanced 911 wireless tower access matching grant order adopted by the Public Service Commission. The commission order shall contain terms and conditions designed to provide financial assistance loans or grants to state agencies, political subdivisions of the state, and wireless telephone carriers for the acquisition, equipping, and construction of new wireless towers, which would not be available otherwise due to marginal financial viability of the applicable tower coverage area: *Provided*, That the grants shall be allocated among potential sites based on application from county commissions demonstrating the need for enhanced 911 wireless coverage in specific areas of this state. Any tower constructed with assistance from the fund created by this subsection shall be available for use by emergency services, fire departments, and law-enforcement agencies' communications equipment, so long as that use does not interfere with the carriers' wireless signal.

(f) CMRS providers have the same rights and responsibilities as other telephone service suppliers in dealing with the failure by an in-state two-way service subscriber to timely pay the wireless enhanced 911 fee, the public safety fee, and the wireless tower fee.

(g) Notwithstanding the provisions of §24-6-1a of this code, for the purposes of this section, the term "county" means one of the counties provided in §1-1-1 of this code.

(h) Notwithstanding anything to the contrary in this code, prepaid wireless calling service is not subject to the wireless enhanced 911 fee, the public safety fee, and the wireless tower fee.

(i) The Public Service Commission shall promulgate rules in accordance with §29A-3-1 *et seq.* of this code to effectuate the provisions of this section. The Public Service Commission may promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code.

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