

DISCLAIMER

Electronic versions of the exhibits in these minutes may not be complete.

This information is supplied as an informational service only and should not be relied upon as an official record.

Original exhibits are on file at the Legislative Counsel Bureau Research Library in Carson City.

Contact the Library at (775) 684-6827 or library@lcb.state.nv.us.

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

Ex C

LEGISLATIVE COMMISSION (775) 684-6800
RICHARD D. PERKINS, *Assemblyman, Chairman*
Lorne J. Malkiewich, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821
MORSE ARBERRY, JR., *Assemblyman, Chairman*
Mark W. Stevens, *Fiscal Analyst*
Gary L. Ghiggeri, *Fiscal Analyst*

CARSON CITY OFFICE:
Legislative Building, 401 S. Carson Street
Carson City, Nevada 89701-4747
Fax No.: (775) 684-6600
LORNE J. MALKIEWICH, *Director* (775) 684-8800
PAUL V. TOWNSEND, *Legislative Auditor* (775) 684-8815
ROBERT E. ERICKSON, *Research Director* (775) 684-8825
BRENDA J. ERDOES, *Legislative Counsel* (775) 684-8830



LAS VEGAS OFFICE:
555 E. Washington Avenue, Room 4400
Las Vegas, Nevada 89101-1049
Fax No.: (702) 486-2810
BRIAN L. DAVIE, *Legislative Services Officer* (702) 486-2800

MEMORANDUM

DATE: April 17, 2003

TO: Gary Ghiggeri, Senate Fiscal Analyst
Fiscal Analysis Division

FROM: Mike Chapman, Program Analyst *Mike*
Fiscal Analysis Division

SUBJECT: Assessments on Wireless Services (S.B. 164)

Gary, pursuant to your 4/15/03 email, I did confirm with Crystal Jackson, Commission Secretary, Public Utilities Commission (PUC), that the agency does notify wireless providers of the Telephone Device for the Deaf (TDD) surcharge that is assessed to local exchange carriers as required in NRS 707.360. Ms. Jackson indicated that very few of the wireless companies actually pay because the majority of them do not believe NRS 707.360 applies to them. However, the PUC's General Counsel has opined that the Commercial Mobile Radio Service (CMRS) providers are subject to the surcharge. Please refer to the attached opinion and email waiving attorney client privilege to the confidential opinion. Some of the companies that have paid the assessment have requested a refund if at some point in time it is determined that wireless companies are not required to pay. Attached is a schedule identifying all of the wireless carriers operating in Nevada, along with FY 2003 payment-to-date information for those companies that have paid the assessment. The schedule indicates \$7,607 has been collected to date in FY 2003. I have also attached a copy of the notice of assessment letter and the associated reporting form utilized by the PUC.

As a separate item, wireless companies are also assessed a fee that funds the state Universal Service Fund pursuant to NRS 704.040(7). Moneys in the fund are utilized to maintain the availability of telephone service (typically in rural areas). Pursuant to NRS, the fund is administered by an independent administrator (Nevada Exchange Carriers Association, aka NECA), and is accessed by the PUC by approving requests from telephone companies for facility improvements. The PUC indicates \$285,529 was collected from wireless companies in calendar year 2000, the last year of collections from all companies due to the balance in the fund being sufficient to fund improvement needs in 2001, 2002 and 2003. If you need anything further, please advise.

Attachments

cc: Bob Guernsey, Principal Deputy Fiscal Analyst
Brian Burke, Senior Program Analyst

**PUBLIC UTILITIES COMMISSION OF NEVADA
MEMORANDUM**

**Confidential Communication Under NRS 49.095
(Not to be disclosed under the Public Records Statute)**

DATE: April 8, 2002
TO: Chairman Donald Soderberg, Commission Secretary Crystal Jackson
FROM: General Counsel's Office
RE: CMRS Payment of the Surcharge for the Speech and Hearing Impaired

You have asked for a written opinion from this office regarding whether or not CMRS providers should pay the surcharge for the speech and hearing impaired. You have also asked what would be the Commission's remedy if CMRS providers fail to participate in the program.

NRS 707.360(2) provides in pertinent part that "[a] surcharge is hereby imposed on each access line of each customer to the local exchange of any telephone company providing such lines in this state which is sufficient to cover the costs of the program...." An access line can be a hard line or airwave as long as it provides access to the central office (switching center). CMRS providers are telephone companies. Nothing in NRS 707.360 specifically exempts a CMRS provider from paying the surcharge. Therefore, CMRS providers are subject to the surcharge.

One potential problem exists in the Commission's corresponding regulations, which are found at NAC Chapter 707. Pursuant to NAC 707.020, the Commission is to assess each intraexchange carrier a surcharge for the fund for telecommunication for persons with impaired speech or hearing. Pursuant to NAC 707.010(3), an intraexchange carrier means any person providing, for a fee, intrastate telecommunications within a specified area where local service is provided by a single telephone service having its own switching facilities. Almost every carrier currently assessed could argue that it does not need to pay the surcharge because the Commission's definition of intraexchange carrier is so limiting. We suggest that the definition of intraexchange be amended to eliminate the outdated language "... where local service is provided by a single telephone service having its own switching facilities." Even without the change, we believe that the Commission's regulations could not be used to avoid paying the surcharge, which is controlled by NRS 707.360. Thus, by statute the Commission cannot limit the types of telephone companies assessed.

In the past, CMRS providers have argued that NAC 704.68026 exempted them from Commission oversight except for issues regarding universal service. However, the exemption only applies to the provisions of NAC Chapter 704. The TDD fund is codified at NAC Chapter 707. Therefore, the CMRS providers are not exempted from the assessment.

There is no specific penalty provision in NRS Chapter 707 for failure to pay the surcharge. However, if a CMRS provider refuses to pay the surcharge, the Commission

may want to issue a show cause order. This will help establish a record for assessing a penalty, which must be approved by the court. Through a show cause proceeding, the Commission would issue an order finding that a CMRS provider must pay the surcharge. If the CMRS provider still refused to pay, the Commission could invoke its powers under NRS 703.380(1)(b) and (c) to assess a civil penalty (\$1,000/day up to \$100,000) for violation of Commission regulations and failure to obey a Commission order.

Based on the foregoing, General Counsel's Office believes that the Commission can assess CMRS providers for the TDD fund. Furthermore, if CMRS providers refuse to pay, the Commission can penalize the offender pursuant to NRS 703.380.

Chapman, Michael

From: Crystal Jackson [cjackson@puc.state.nv.us]

Sent: Thursday, April 17, 2003 9:49 AM

To: Chapman, Michael

Subject: General Counsel Memo

As I mentioned to you on the telephone yesterday, the memorandum I have from General Counsel's office regarding my request for an opinion as to whether or not CMRS providers should pay the surcharge for the speech and hearing impaired and what the Commission's remedy would be if CMRS providers fail to pay is a confidential communication under NRS 49.095.

However, since the opinion was requested by me (and addressed to the Chairman and me), General Counsel's office has informed me that the Chairman and I can provide the memorandum to you if we both agree to do so. The Chairman and I have agreed to waive the attorney client privilege of this memo. I will fax a copy of the memo to you shortly. Hopefully, it will be helpful to you and Senator Raggio.

Please let me know if you have further questions. Thank you.

4/17/2003

4

**PUBLIC UTILITIES COMMISSION
SURCHARGE FOR ASSISTANCE TO PERSONS WITH IMPAIRED SPEECH OR HEARING
FY 03 PAYMENT HISTORY (CMRS's)**

USING NEW FORM?	RECEIPT	CODE	PUCN RECEIVED FROM	DATE	AMOUNT
		AIM	AIRTOUCH MINERAL dba AIRTOUCH COMMUNICATIONS		
		AIR	AIRTOUCH RENO dba AIRTOUCH COMMUNICATIONS		
		AIP	AIRTOUCH WHITE PINE dba AIRTOUCH COMMUNICATIONS		
		ACH	ARCH COMMUNICATIONS ENTERPRISES, INC. dba ARCH PAGING, INC.		
		AWR	AT&T WIRELESS dba RENO CELLULAR TELEPHONE COMPANY		
Yes		AUT	AUTOTEL	2/24/03	\$ -
		AUT	AUTOTEL		
		AUT	AUTOTEL		
		AUT	AUTOTEL		
		CWS	CC COMMUNICATIONS (8/22/02)		
		VZZ	CELLCO PARTNERSHIP		
Yes	30189	CKT	CRICKET COMMUNICATIONS, INC.	11/25/02	\$ 3,078.00
No	30329	CKT	CRICKET COMMUNICATIONS, INC.	1/24/03	\$ 3,683.04
		CKT	CRICKET COMMUNICATIONS, INC.		
		CKT	CRICKET COMMUNICATIONS, INC.		
		EGW	EDGE WIRELESS, LLC (10/22/02)		
		EXT	EXCEL TELECOMMUNICATIONS, INC. (has CPC also - reporting posted there)		
Yes		LCU	LOCUS CORPORATION	3/3/03	\$ -
		LCU	LOCUS CORPORATION		
		LCU	LOCUS CORPORATION		
		LCU	LOCUS CORPORATION		
		VGP	McCAW COMMUNICATIONS OF LAS VEGAS dba VEGAS INSTANT PAGE		
		MTC	METROCALL, INC. (7/1/02)		
		MTT	MOBILE TELECOMMUNICATIONS TECHNOLOGY CORPORATION dba SKYTEL (affiliated with WorldCom)		
Yes	30084	NWS	NEVADA WIRELESS, LLC	10/21/02	\$ 270.96
Yes	30384	NWS	NEVADA WIRELESS, LLC	2/3/03	\$ 188.24
		NWS	NEVADA WIRELESS, LLC		
		NWS	NEVADA WIRELESS, LLC		
		NXE	NEXTEL OF CALIFORNIA, INC. dba NEXTEL COMMUNICATIONS		
		ONI	OMNIPPOINT COMMUNICATIONS, INC. (8/7/02)	3/13/03	\$ -
Yes		ONE	ONESTAR LONG DISTANCE, INC. (CMRS Cancelled 1/23/03)	3/13/03	\$ -
		PBM	PACIFIC BELL WIRELESS		
		RCO	RENO COMMUNICATIONS, INC.		
		VZW	SACRAMENTO VALLEY LTD PARTNERSHIP dba VERIZON WIRELESS		
		SMS	SMARTALK TELESERVICES, INC. dba EN ROUTE		
		SHW	SOUTHWESTCO WIRELESS LIMITED PARTNERSHIP dba VERIZON WIRELESS		
		STM	SPRINT SPECTRUM, LP (1/9/02)		
		WBC	UTILITY SOURCE, INC.		
		VZM	VERIZON WIRELESS MESSAGING SERVICES, LLC (5/24/02)		
6/02 Received letter that they will not be filing and they wish to cancel the CMRS that was just issued on 5/24/02					
		VGM	VIRGIN MOBILE USA, LLC (4/9/02)		
Yes	30421	PRQ	WUE, Inc.	2/24/03	\$ 386.88
		PRQ	WUE, Inc.		
		PRQ	WUE, Inc.		
		PRQ	WUE, Inc.		
		GCC	WWC LICENSE, LLC		
					\$ 7,607.12

KENNY C. GUINN
Governor

STATE OF NEVADA
PUBLIC UTILITIES COMMISSION OF NEVADA

1150 East William Street
Carson City, Nevada 89701-3109
Policy (775) 687-6007 ☎ Fax (775) 687-6110
Staff (775) 687-6001 ☎ Fax (775) 687-6120
<http://puc.state.nv.us>

RURAL NEVADA
557 W. Silver Street, No. 205
Elko, Nevada 89801
(775) 738-4914 ☎ Fax (775) 778-6928



SOUTHERN NEVADA OFFICE
101 Convention Center Dr., Suite 250
Las Vegas, Nevada 89109
(702) 486-2600 ☎ Fax (702) 486-7206

May 29, 2002

RE: 2002 - 2003 Surcharge for Assistance to Persons with Impaired Speech or Hearing

Dear Intraexchange Carrier:

Pursuant to Nevada Revised Statute 707.360 and Nevada Administrative Code 707.010 – 707.050, please complete the enclosed report form, have it notarized and return it to the Commission quarterly with your remittance. Quarterly reporting was mandated by the Commission in Docket No. 90-549 (Order issued 11/29/90). Reporting dates and due dates are listed on the report form.

The surcharge rate for fiscal year 2002-2003 is \$0.08 per month on each access line of each customer to the local exchange of any telephone company providing such lines in this state. If you are not currently providing service in Nevada, please inform the Commission as such.

Please send your report form and remittance to:

Public Utilities Commission of Nevada
Attn: Fiscal Services
1150 E. William Street
Carson City NV 89701-3109

Should you have any questions regarding these requirements, please contact Phyllis Carpenter, Accountant, at 775/687-6099. Thank you.

Sincerely,

Crystal Jackson
Commission Secretary

Carson City/Reno--(775) 687-6000 X CONSUMER DIVISION:
Las Vegas--(702) 486-2600 X Other Areas--800-992-0900, Ext. 687-6000

6

PUBLIC UTILITIES COMMISSION OF NEVADA
Surcharge for Assistance to Persons with Impaired Speech or Hearing Report Form

Company Name: _____
 Company Address: _____
 Telephone: _____

Preparer Name: _____
 Preparer Company: _____
 Address: _____
 Telephone: _____

Reporting Period: _____ to _____

<u>Surcharge Month</u>	<u>Number of Lines</u>	<u>Rate Per Line</u>			
_____	_____	x \$0.08	=	\$	_____
_____	_____	x \$0.08	=	\$	_____
_____	_____	x \$0.08	=	\$	_____
Subtotal				\$	_____
Plus Interest Income Pursuant to NAC 707.040 (Attach a copy of your bank statement)				\$	_____
Less Administrative Costs (Attach a worksheet detailing costs associated with the collection of the surcharge for this quarter)				\$	_____
TOTAL REMITTANCE				\$	_____

Remittance Address: Public Utilities Commission of Nevada
 ATTN: Fiscal Services
 1150 E. William Street
 Carson City NV 89701-3109

<u>Reporting Period</u>	<u>Remittance Due Date</u>
July 1, 2002 – September 30, 2002	October 31, 2002
October 1, 2002 – December 31, 2002	January 31, 2003
January 1, 2003 – March 31, 2003	April 30, 2003
April 1, 2003 – June 30, 2003	July 31, 2003

Name and title of company official responsible for preparation of this report:

 Name and Title (print or type) Signature

Name and title/affiliation of non-company person preparing this report (if applicable):

 Name and title/affiliation (print or type) Signature

Subscribed to and sworn before me this _____ day of _____, 200__:

 Notary Public