RULES AND REGULATIONS

of the

MISSISSIPPI COMMERCIAL MOBILE RADIO SERVICE BOARD

Post Office Box 22692
Jackson, MS 39225-2692
601-969-2178
www.mscmrs.org.

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SECTION I
GENERAL PROVISIONS

1-1. DEFINITIONS: The following terms shall have the meanings ascribed herein:

1. The terms "Board" and "CMRS Board" mean the Commercial Mobile Radio Service Board.

2. The term "automatic number identification" or "ANI" means an enhanced 911 service capability that enables the automatic display of the ten-digit wireless telephone number used to place a 911 call and includes "pseudo-automatic number identification" or "pseudo-ANI," which means an enhanced 911- service capability that enables the automatic display of the number of the cell site and an identification of the CMRS provider.

3. The term "commercial mobile radio service" or "CMRS" means commercial mobile radio service under Sections 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C. Section 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103-66. The term includes the term "wireless" and service provided by any wireless real time two-way voice communication device, including radio-telephone communications used in cellular telephone service, personal communication service, or the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communication service, specialized mobile radio service, or a network radio access line. The term does not include service whose customers do not have access to 911 or to a 911-like service, to a communications channel suitable only for date transmission, to a wireless roaming service or other non-local radio access line service, or to a private telecommunications system.

4. The term "commercial mobile radio service provider" or "CMRS provider" or the plural thereof, as the context requires, means a person or entity who provides commercial mobile radio service or CMRS service.

5. The term "CMRS connection" or the plural thereof, as the context requires, means each mobile handset telephone number assigned to a CMRS customer with a service address in the State of Mississippi.

6. The term "CMRS Fund" means the Commercial Mobile Radio Service Fund required to be established and maintained pursuant to Section II of these rules.

7. The term "CMRS service charge" or the plural thereof, as the context requires, means the CMRS emergency telephone service charge levied, maintained and collected pursuant to Section II of these rules.

8. The term "distribution formula" means the formula specified in Section II, 2-3 of these rules by which monies generated from the CMRS service charge are distributed on a percentage basis to emergency communications districts and to the CMRS Fund.

9. The term "ECD" means an emergency communications district created pursuant to Section 19-5-301, et seq., Mississippi Code of 1972, or by local and private acts of the State of Mississippi.

10. The term "enhanced 911," "E9ll," "enhanced E911 system" or "E911 system" means an emergency telephone system that provides the caller with emergency 911 system service, that directs enhanced 911 calls to the appropriate public safety answering points by selective routing based on the geographical location from which the call originated, and that provides the capability for automatic number identification and other features that the Federal Communications Commission (FCC) may require in the future.

11. The term "exchange access facility" means an "exchange access facility" as defined by Section 19-5-303, Mississippi Code of 1972.

12. The term "FCC Order" means the order of the Federal Communications Commission, FCC Docket No. 94-102, adopted on June 12, 1996, and released on July 26, 1996.

13. The term "service address" means the location address if the location address is known and accessible; however, if the location address is not known and accessible, the term shall mean the billing address.

14. The term "service supplier" or the plural thereof, as the context requires, means a "service supplier" as defined by Section 19-5-303, Mississippi Code of 1972.

15. The term "technical proprietary information" means technology descriptions, technical information or trade secrets and the actual or developmental costs thereof which are developed, produced or received internally by a CMRS provider or by a CMRS provider's employees, directors, officers or agents.

1-2. METHOD OF OPERATION

Commercial Mobile Radio Service Board
P. O. Box 22692
Jackson, MS 39225-2692
Phone: 601-969-2178
Fax: 601-973-7950
Email: www.mscmrs.org.

1. There is created a Commercial Mobile Radio Service (CMRS) Board, consisting of

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of the

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7. The term "CMRS service charge" or the plural thereof, as the context requires, means the CMRS emergency telephone service charge levied, maintained and collected pursuant to Section II of these rules.

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15. The term "technical proprietary information" means technology descriptions, technical information or trade secrets and the actual or developmental costs thereof which are developed, produced or received internally by a CMRS provider or by a CMRS provider's employees, directors, officers or agents.

1-2. METHOD OF OPERATION

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Jackson, MS 39225-2692
Phone: 601-969-2178
Fax: 601-973-7950
Email: www.mscmrs.org.

1. There is created a Commercial Mobile Radio Service (CMRS) Board, consisting of

seven (7) members to be appointed by the Governor with the advice and consent of the Senate. The members of the board shall be appointed as follows:

(a) One (1) member from the Northern Public Service Commission District selected from two (2) nominees submitted to the Governor by the Mississippi 911 Coordinators Association;

(b) One (1) member from the Central Public Service Commission District selected from two (2) nominees submitted to the Governor by the Mississippi Chapter of the Association of Public Safety Communication Officers;

(c) One (1) member from the Southern Public Service Commission District selected from two (2) nominees submitted to the Governor by the National Emergency Numbering Association;

(d) Two (2) members who are wireless provider representatives;

(e) One (1) member who is a consumer representing the state at large with no affiliation to the three (3) trade associations or the wireless providers; and

(f) One (1) member who is a member of the Mississippi Law Enforcement Officers Association selected from two (2) nominees submitted to the Governor by the association.

The initial terms of the board members, as appointed after July 1, 2002, shall be staggered as follows: the members appointed under paragraph (d) shall serve a term of two (2) years; the member appointed under paragraph (e)shall serve a term of one (1) year. After the expiration of the initial terms, the term for all members shall be four (4) years.

2. The board shall have the following powers and duties:

(a) To collect and distribute a CMRS emergency telephone service charge on each CMRS customer whose place of primary use is within the state. The rate of such CMRS service charge shall be One Dollar ($1.00) per month per CMRS connection. The CMRS service charge shall have uniform application and shall be imposed throughout the state. The board is authorized to receive all revenues derived from the CMRS service charge levied on CMRS connections in the state and collected pursuant to Section 19-5-335.

(b) To establish and maintain the CMRS Fund as an insured, interest-bearing account into which the board shall deposit all revenues derived from the CMRS service charge levied on CMRS connections in the state and collected pursuant to Section 19-5-335. The revenues which are deposited into the

CMRS Fund shall not be monies or property of the state and shall not be subject to appropriation by the Legislature. Interest derived from the CMRS Fund shall be divided equally to pay reasonable costs incurred by providers in compliance with the requirements of Sections 19-5-331 through 19-5-341 and to compensate those persons, parties or firms employed by the CMRS Board as contemplated in paragraph (d) of this subsection. The interest income is not subject to the two percent (2%) cap on administrative spending established in Section 19-5-335(3).

(c) To establish a distribution formula by which the board will make disbursements of the CMRS service charge in the following amounts and in the following manner:

(i) Out of the funds collected by the board, thirty percent (30%) shall be deposited into the CMRS Fund, and shall be used to defray the administrative expenses of the board in accordance with Section 19-5-335(3) and to pay the actual costs incurred by such CMRS providers in complying with the wireless E911 service requirements established by the FCC Order and any rules and regulations which are or may be adopted by the FCC pursuant to the FCC Order, including, but not limited to, costs and expenses incurred for designing, upgrading, purchasing, leasing, programming, installing, testing or maintaining all necessary data, hardware and software required in order to provide such service as well as the incremental costs of operating such service. Sworn invoices must be presented to the board in connection with any request for payment and approved by a majority vote of the board prior to any such disbursement, which approval shall not be withheld or delayed unreasonably. In no event shall any invoice for payment be approved for the payment of costs that are not related to compliance with the wireless E911 service requirements established by the FCC Order and any rules and regulations which are or may be adopted by the FCC pursuant to the FCC Order, and any rules and regulations which may be adopted by the FCC with respect to implementation of wireless E911 services.

(ii) The remainder of all funds collected by the board, which shall not be less than seventy percent (70%) of the total funds collected by the board, shall be distributed by the board monthly based on the number of CMRS connections in each ECD for use in providing wireless E911 service, including

capital improvements, and in their normal operations. For purposes of distributing the funds to each ECD, every CMRS provider shall identify to the CMRS Board the ECD to which funds should be remitted based on zip code plus four (4) designation, as required by the federal Uniform Sourcing Act.

An ECD board that has within its jurisdiction zip code designations that do not adhere to county lines shall assist CMRS providers in determining the appropriate county to which funds should be distributed.

(d) To contract for the services of accountants, attorneys, consultants, engineers and any other persons, firms or parties the board deems necessary to effectuate the purposes of Sections 19-5-331 through 19-5-341.

(e) To obtain from an independent, third-party auditor retained by the board annual reports to the board no later than sixty (60) days after the close of each fiscal year, which shall provide an accounting for all CMRS service charges deposited into the CMRS Fund during the preceding fiscal year and all disbursements to ECDs during the preceding fiscal year. The board shall provide a copy of the annual reports to the Chairmen of the Public Utilities Committees of the House of Representatives and Senate.

(f) To retain an independent, third-party accountant who shall audit CMRS providers at the discretion of the CMRS Board to verify the accuracy of each CMRS provider's service charge collection. The information obtained by the audits shall be used solely for the purpose of verifying that CMRS providers accurately are collecting and remitting the CMRS service charge and may be used for any legal action initiated by the board against CMRS providers.

(g) To levy interest charges at the legal rate of interest established in Section 75-17-1 on any amount due and outstanding from any CMRS provider who fails to remit service charges in accordance with Section 19-5-335(1).

(h) To promulgate such rules and regulations as may be necessary to effect the provisions of Sections 19-5-331 through 19-5-341.

(i) To make the determinations and disbursements as provided by Section 19-5-333(2)(c).

(j) To maintain a registration database of all CMRS providers and to impose an administrative fine on any provider that fails to comply with the registration requirements in Section 19-5-335.

3. The CMRS service charge provided in subsection (2)(a) of this section and the service charge provided in Section 19-5-357 to fund the training of public safety telecommunicators shall be the only charges assessed to CMRS customers relating to emergency telephone services.

4. The board shall serve without compensation; however, members of the board shall be entitled to be reimbursed for actual expenses and travel costs associated with their service in an amount not to exceed the reimbursement authorized for state officers and employees in Section 25-3-41, Mississippi Code of 1972.

5. It is the Legislature's intent to ensure that the State of Mississippi shall be Phase I compliant by July 1, 2005. For purposes of this subsection, Phase I compliant means the mandate by the FCC that requires any carrier when responding to a PSAP to define and deliver data related to the cell site location and the caller's call-back number.

1-3. MEMBERSHIP. The CMRS Board reserves the right to recommend the individual or organization which initiates the appointment, removal of a member who fails to attend three (3) consecutive regularly scheduled meetings of the Board.

1.4 ORAL PROCEEDINGS ON PROPOSED RULES

1. Scope. This rule applies to all oral proceedings held for the purpose of providing the public with an opportunity to make oral presentations on proposed new rules and amendments to rules before the CMRS Board pursuant to Section 25-43-3.104, Mississippi Code of 1972, as amended

2. When Oral Proceedings will be Scheduled on Proposed Rules. The CMRS Board will conduct an oral proceeding on a proposed rule or amendment if requested by a political subdivision, an agency or ten (10) persons in writing within twenty (20) days after the filing of the notice of the proposed rule.

3. Request Format. Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8-1/2 inches by 11 inches). Requests may be in the form of a letter addressed to the CMRS Board and signed by the requestor(s).

4. Notification of Oral Proceeding. The date, time and place of all oral proceedings shall be filed with the Secretary of State's office and mailed to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of this information with the Secretary of State.

5. **Presiding Officer**. The Chairperson or his or her designee, who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule.

6. Public Presentations and Participation.

(a) At an oral proceeding on a proposed rule, persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the proposed rule.

(b) Persons wishing to make oral presentations at such a proceeding shall notify the CMRS Board at least one business day prior to the proceeding and indicate the general subject of their presentations. The presiding chairperson in his or her discretion may allow individuals to participate that have not previously contacted the CMRS Board.

(c) At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding chairperson.

(d) The presiding chairperson may place time limitations on individual oral presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.

(e) Persons making oral presentations are encouraged to avoid restating matters that have already been submitted in writing.

(f) There shall be no interruption of a participant who has been given the floor by the presiding chairperson, except that the presiding chairperson may in his or her discretion interrupt or end the partisan's time where the orderly conduct of the proceeding so requires.

7. Conduct of Oral Proceeding.

(a) Presiding chairperson. The presiding chairperson shall have authority to conduct the proceeding in his or her discretion for the orderly conduct of the proceeding. The presiding chairperson shall (i) call proceeding to order; (ii) give a brief synopsis of the proposed rule, a statement of the statutory authority for the proposed rule, and the reasons provided by the CMRS Board for the proposed rule; (ii)call on those individuals who have contacted the CMRS Board about speaking on or against the proposed rule; (iii) allow for rebuttal statements following all participants' comments; (iv) adjourn the proceeding.

(b) Questions. The presiding chairperson, where time permits and to facilitate the exchange of information, may open the floor to questions or general discussion. The presiding chairperson may question participants and permit the questioning of participants by other participants about any

matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding; but no participant shall be required to answer any question.

(c) Physical and Documentary Submissions. Submissions presented by participants in an oral proceeding shall be submitted to the presiding chairperson. Such submissions become the property of the CMRS Board and are subject to the CMRS Board's public records request procedure.

(d) Recording. The CMRS Board may record oral proceedings by stenographic or electronic means.

1.5. DECLARATORY OPINIONS

1. **Scope.** These rules set forth the CMRS Board's rules governing the form and content of requests for declaratory opinions, and the CMRS Board's procedures regarding the requests, as required by Section 25-43-2.103, Mississippi Code of 1972, as amended. These rules are intended to supplement and be read in conjunction with the provisions of the Mississippi Administrative Procedures Law, which may contain additional information regarding the issuance of declaratory opinions. In the event of any conflict between these rules and the Mississippi Administrative Procedures Law, the latter shall govern.

2. **Persons Who May Request Declaratory Opinions.** Any person with a substantial interest in the subject matter may request a declaratory opinion from the CMRS Board by following the specified procedures. "Substantial interest in the subject matter" means: an individual, business, group or other entity that is directly affected by the CMRS Board's administration of the laws within its primary jurisdiction. "Primary jurisdiction of the agency" means the agency has a constitutional or statutory grant of authority in the subject matter at issue.

3. **Subjects Which May Be Addressed In Declaratory** Opinions. The CMRS Board will issue declaratory opinions regarding the applicability to specified facts of: (1) a statute administered or enforceable by the CMRS Board or (2) a rule promulgated by the CMRS Board. The CMRS Board will not issue a declaratory opinion regarding a statute or rule which is outside the primary jurisdiction of the agency.

4. **Circumstances In which Declaratory Opinions Will Not Be Issued.** The CMRS Board may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:

(a) lack of clarity concerning the question presented;

(b) there is pending or anticipated litigation, administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;

(c) the statute or rule on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;

(d) the facts presented in the request are not sufficient to answer the question presented;

(e) the request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;

(f) the request seeks to resolve issues which have become moot, or are abstract or hypothetical such that the requestor is not substantially affected by the statute or rule on which a declaratory opinion is sought;

(g) no controversy exists concerning the issue as the requestor is not faced with existing facts or those certain to arise which raise a question concerning the application of the statute or rule;

(h) the question presented by the request concerns the legal validity of a statute or rule;

(i) the request is not based upon facts calculated to aid in the planning of future conduct but is, instead, based on past conduct in an effort to establish the effect of that conduct;

(j) no clear answer is determinable;

(k) the question presented by the request involves the application of a criminal statute or a set of facts which may constitute a crime;

(l) the answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;

(m) The question is currently the subject of an Attorney General's opinion request or has been answered by an Attorney General's opinion;

(n) A similar request is pending before this agency or any other agency or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such a opinion would constitute the unauthorized practice of law.

(o) Where issuance of a declaratory opinion may adversely affect the interests of the State, the CMRS Board or any of their officers or employees in any litigation which is pending or may reasonably be expected to arise;

(p) The question involves eligibility for a license, permit, certificate or other approval by the CMRS Board or some other agency, and there is a statutory or regulatory application process by which eligibility for said license, permit, certificate or other approval would be determined.

5. **Written Request Required.** Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8-1/2 inches by 11 inches). Requests may be in the form of a letter addressed to the CMRS Board.

6. **Where to Send Requests**. All requests must be mailed, delivered or transmitted via facsimile to the CMRS Board. The request shall clearly state that it is a request for a declaratory opinion. No oral, telephone requests or email requests will be accepted for official opinions.

7. **Name, Address and Signature of Requestor**. Each request must include the full name, telephone number, and mailing address of the requestor. All requests shall be signed by the person filing the request, who shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any other administrative or judicial tribunal.

8. **Question Presented**. Each request shall contain the following:

(a) a clear and concise statement of all facts on which the opinion is requested;

(b) a citation to the statute or rule at issue;

(c) the question(s) sought to be answered in the opinion, stated clearly;

(d) a suggested proposed opinion from the requestor, stating the answers desired by petitioner and a summary of the reasons in support of those answers;

(e) the identity of all other known persons involved in or impacted by the described factual situation, including their relationship to the facts, name, mailing address and telephone number; and

(f) a statement to show that the person seeking the opinion has a substantial interest in the subject matter.

10. **Time for CMRS Board's Response**. Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, the CMRS Board shall, in writing:

(a) issue a declaratory opinion regarding the specified statute or rule as applied to the specified circumstances;

(b) decline to issue a declaratory opinion, stating the reasons for its action; or

(c) agree to issue a declaratory opinion by a specified time but not later than ninety (90) days after receipt of the written request.

The forty-five (45) day period shall begin running on the first State of Mississippi business day on or after the request is received by the CMRS Board, whichever is sooner.

11. Opinion Not Final for Sixty Days. A declaratory opinion shall not become final until the expiration of sixty (60) days after the issuance of the opinion. Prior to the expiration of sixty (60) days, the CMRS Board may, in its discretion, withdraw or amend the declaratory opinion for any reason which is not arbitrary or capricious. Reasons for withdrawing or amending an opinion include, but are not limited to, a determination that the request failed to meet the requirements of these rules or that the opinion issued contains a legal or factual error.

12. Notice by CMRS Board to third parties. The CMRS Board may give notice to any person, agency or entity that a declaratory opinion has been requested and may receive and consider data, facts, arguments and opinions from other persons, agencies or other entities other than the requestor.

13. Public Availability of Requests and Declaratory Opinions. Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying in accordance with the Public Records Act and the CMRS Board's public records request procedure. All declaratory opinions and requests shall be indexed by name and subject. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

14. Effect of a Declaratory Opinion. The CMRS Board will not pursue any civil, criminal or administrative action against a person who is issued a declaratory opinion from the CMRS Board and who, in good faith, follows the direction of the opinion and acts in accordance therewith unless a court of competent jurisdiction holds that the opinion is manifestly wrong. Any declaratory opinion rendered by the CMRS Board shall be binding only on the CMRS Board and the person to whom the opinion is issued. No declaratory opinion will be used as precedent for any other transaction or occurrence beyond that set forth by the requesting person.

SECTION II.
CMRS SERVICE CHARGE

2-1. Emergency Telephone Service Charge. The Board shall collect and distribute a CMRS emergency service charge on each CMRS connection that has a billing address within the state. The rate of such wireless service charge shall be One Dollar ($1.00) per month per CMRS connection, beginning 13 April 1998. The CMRS service charge shall have uniform application and shall be imposed throughout the state.

2-2. Collection and Remittance of Service Charge. Each CMRS provider shall act as a collection agent for the CMRS Fund and shall, as part of the provider's normal monthly billing process, collect the CMRS service charges levied upon CMRS connections from each CMRS

connection to whom the billing provider provides CMRS service and shall, not later than thirty (30) days after the end of the calendar month in which such CMRS service charges are collected, remit to the Board the net CMRS service charges so collected after deducting an administrative fee as described in subsection 2-3 below. Each billing provider shall list the CMRS service charge as a separate entry on each bill which includes a CMRS service charge.

2-3. CMRS Collection Costs. Each CMRS provider shall be entitled to deduct and retain from the CMRS service charges collected by such provider during each calendar month an amount not to exceed one percent (1%) of the gross aggregate amount of such CMRS service charges so collected as reimbursement for the costs incurred by such provider in collecting, handling and processing such CMRS service charges.

2-4. CMRS Fund Account. The Board shall establish and maintain the CMRS Fund as an insured, interest-bearing account into which the board shall deposit all revenues derived from the CMRS service charge levied on CMRS connections in the state.

2-5. Interest. The CMRS Board shall have the power to levy interest charges at the legal rate of interest established in Section 75-17-1, Mississippi Code Annotated of 1972, as amended, on any amount due and outstanding from any CMRS provider who fails to remit service charges in accordance with Section 19-5-335(1).

The Board shall levy interest charges at the legal rate of interest based on the date the money is received and not the post-marked date on any amount due and outstanding from any CMRS provider who remits payment thirty (30) days after the end of the calendar month.

SECTION III.
DISTRIBUTION OF SERVICE CHARGE

3-1. Disbursement of Service Charge. The Board shall establish a distribution formula by which the Board will make disbursements of the CMRS service charge in the following amounts and in the following manner:

(a) Out of the funds collected by the Board, thirty percent (30%) shall be deposited into the CMRS Fund and shall be disbursed to CMRS providers as described in Section IV, CMRS Cost Recovery. The Board shall be entitled to retain from the CMRS service charges collected during each calendar month an amount not to exceed two percent (2%) of the money allocated to the CMRS Fund as reimbursement for the costs incurred by the Board. Such costs include, but are not limited to, retaining and paying the independent, third-party auditor to review and disburse the cost recovery funds and to prepare all necessary reports.

(b) The remainder of all funds collected by the Board, which shall not

be less than seventy percent (70%) of the total funds collected by the Board, shall be distributed by the Board monthly based on the number of CMRS connections in each ECD for use in providing wireless E911 service, including capital improvements, and in their normal operations.

3-2. Distribution Formula. The CMRS service charge shall be $1.00 as established by state law. From the $1.00 service charge collected by each provider as contemplated by Section 19-5-331 of the Mississippi Code of 1972, as amended:

(a) 1 cent shall be retained by the providers to cover their cost of collecting, handling and processing the service charge.

(b) 99 cents shall be forwarded by the provider to the CMRS Board.

(c) Thirty percent (30%) of the 99 cents, or 29.70 cents, shall be identified for use to reimburse service suppliers for expenses as specified in the applicable sections of state law to meet FCC mandates and to pay Board expenses. Board expenses shall not exceed two percent (2%) of the thirty percent (30%) of the 99 cents or .594 cents. Thus, the remaining 29.106 cents will be available to reimburse service suppliers.

(d) Seventy percent (70%) of the 99 cents, or 69.3 cents, shall be identified to be distributed to the respective county Emergency Communications Districts (ECDs) from which the service charge was imposed.

3-3. Distribution of Funds to ECD. All funds due to the respective ECDs as their proportionate share of the funds received and on deposit in the Commercial Mobile Radio Service Fund (CMRS Fund) shall be disbursed, no later than ten (10) business days after the date those are due to the Board from various commercial mobile radio service providers.

3-4. Cost Study. The Board shall conduct a cost study on or before October 1, 1999, and adjust the distribution formula to reflect actual costs to be incurred by each CMRS provider in order to comply with Phase One of the wireless E911 service requirements established by the FCC Order and any rules and regulations which are or may be adopted by the FCC pursuant to the FCC Order.

CHAPTER IV.
CMRS COST RECOVERY

4-1. Payment to CMRS Providers. The Board shall pay the actual costs incurred by such

CMRS providers in complying with the wireless E911 service requirements established by the FCC Order and any rules and regulations which are or may be adopted by the FCC pursuant to the FCC Order. In no event shall any invoice for payment be approved for the payment of costs that are not related to such compliance.

4-2. Cost Recovery Plan.

1. Upon receipt of a request for wireless E9-1-1 service from a Mississippi Emergence Communication District or Districts (ECDs), the CMRS carrier will develop a comprehensive detailed plan for implementation of E9-1-1 service for the ECD, or the appropriate service area if the CMRS carrier's switch serves more than one ECD.

2. The plan, complete with cost information, will be presented to the requesting ECD for concurrence. Upon acceptance of the plan and the associated cost structure by the ECD, the ECD (in person or by proxy) and CMRS carrier will present the plan to the Board for its approval. The CMRS carrier shall present in writing to the Board detailed coverage area and customer information to ensure expedient roll-out of wireless E9-1-1 service as requests are received and approved by the Board.

3. After initial acceptance of a CMRS carrier's plan using a particular solution by the Board, the CMRS carrier need not make additional presentations to the Board as to that particular solution. Certified letters shall be sent to the Board with notification of additional serve implementation in the state and the resulting cost recovery represented.

4. The initial cost recovery plan presented to the Board is intended to allow for the recovery of a carrier's cost on a one time basis (NRC) and/or recurring monthly basis (MRC). A list of anticipated MRCs and NRCs is set forth below, but the list will vary depending upon the CMRS carrier and the selected E911 solution:

Trunks:

Trunking
Connection fee to 9-1-1 Selective Router (per DSO)

Engineering & Network Costs:

Facilities; T-1's, selective router ports
Routing Charges
Operations
Engineering
Switch upgrades
Research & Development
Network design

Test plan development

Database Cost

P-ANI administration
Database management

Other

Reporting
Software
Other

5. The Board shall provide the CMRS carrier either approval or denial of the cost recovery plan in writing, and send by certified United States Mail or by any other express service requiring a delivery signature. If the Board denies a CMRS carrier's cost recovery plan, the Board shall provide express reasons for the denial in writing within 3 days of the denial. The CMRS carrier may resubmit or revise cost recovery plans as soon as the Board approves an acceptable date. If the Board approves the cost recovery plan, then the CMRS carrier and the Board shall sign the model contract, attaching the cost recovery plan.

4-3. Reimbursement Claims. Once a cost recovery plan is approved, the CMRS carrier may file claims for reimbursement of non-recurring costs and/or recurring costs. The amount of reimbursement that the CMRS carrier is entitled to receive may be calculated in several ways:

1. by multiplying the number of CMRS subscribers receiving wireless E911 service as reported by the CMRS carrier prior to its request for reimbursement by the amount authorized per subscriber for cost recovery by the Board. CMRS carriers shall be required to report their subscriber count no less than once a quarter. The dollar amount paid to the CMRS carrier will vary based on total number of subscribers reported by the CMRS carrier.

2. by submission of the actual recurring and nonrecurring costs incurred by the carrier and approved by the Board.

3. by a combination of methods (1) and (2).

4-4. Pre-Plan Costs.

1. No Phase I costs incurred by a carrier more than 12 months prior to receipt of the carrier's initial or amended cost recovery plan by the CMRS Board will be considered or reimbursed. Carrier's initial or amended Phase I Cost recovery plan must be submitted by a method requiring delivery receipt (Certified return receipt

mail, Fed EX, etc.).

2. No Phase II costs incurred by a carrier more than 12 months prior to receipt of the carrier's initial or amended cost recovery plan by the CMRS Board will be considered or reimbursed. Carrier's initial or amended Phase II Cost recovery plan must be submitted by a method requiring delivery receipt (Certified return receipt mail, Fed EX, etc.).

4-5. Plan Amendments. CMRS carriers are required to submit revised cost recovery plans if substantive changes occur in their cost structures. Changes to the plan must be submitted in writing and approved by the Board. A CMRS carrier may request an adjustment of the reimbursement rate at any time upon written notice to the Board

SECTION V
INDEPENDENT AUDITS & RECOMMENDATIONS

5-1. Annual Audit Reports. The Board shall obtain from an independent, third-party auditor retained by the Board annual reports to the Board no later than sixty (60) days after the close of each fiscal year. The auditor shall provide an accounting for all CMRS service charges deposited into the CMRS Fund during the preceding fiscal year. The auditor shall provide an accounting of all administrative expenses of the Board and all disbursements to ECDs and CMRS providers (in the aggregate) during the preceding fiscal year. The Board shall provide a copy of the annual reports to the Chairmen of the Public Utilities Committees of the House of Representatives and Senate.

SECTION VI
PROPRIETARY INFORMATION

6-1. SUBMISSION OF PROPRIETARY INFORMATION.

1. To assist in the completion of its duties mandated by the Act, the Board may receive operational, technical and financial information from commercial mobile radio service providers and 911 service providers. Some of this information may be of confidential nature, and the entities providing it may desire it from unnecessary disclosure to third parties. The purpose of these rules is to ensure the protection from disclosure.

2. In order for information submitted to the Board to be deemed proprietary information, a producing party must:

   (a) Place the term "CONFIDENTIAL" on the cover of any document containing proprietary information and clearly and specifically mark all proprietary information contained in the document.

(b) Provide satisfactory proof that the information is competitive and sensitive and its disclosure could be harmful to the producing party. Such proof should be submitted in the form of an affidavit.

(c) Unless otherwise required by the Board, this rule shall not apply to a producing party if the information to be submitted concerns cost, revenue, technology, or market and customer date.

(d) The Board shall treat all information submitted in accordance with this rule as proprietary information. If after review, however, the Board determines the submitted information fails to otherwise qualify under these rules as proprietary information, that information shall not be utilized by the Board, but instead, shall be returned immediately to the producing party.

6-2. Access to Proprietary Information

1. Proprietary information shall not be open to the public for inspection.

2. Proprietary information submitted to the Board shall be disclosed only to the following individuals:

(a) Board members.

(b) Members on the Board's staff and the Attorney General's Office.

(c) On a "need to know" basis as determined by the Board: (i) consultants and experts employed or engaged by the Board; and (ii) members of committees appointed by the Board.

3. Prior to disclosure of any proprietary information to any individuals listed in Section 6-2.2 of this rule, such individuals shall execute and place on file with the Board, a written acknowledgment that they:

(a) have read these rules concerning proprietary information submitted to the Board;

(b) agree to be bound by these rules; and

(c) understand that the unauthorized disclosure of proprietary information as submitted to the Board constitutes a violation of the rules.

4. Under no circumstances shall proprietary information be disclosed to or discussed with anyone associated with the marketing of products, good or services which are in competition with the products, goods and services of a producing party.

6-3. Use of Proprietary Information. All proprietary information submitted to the Board shall be used for the sole purpose of implementing the provisions of the Act.

6-4. Storage of Proprietary Information. All proprietary information in possession of the Board shall be maintained in a secure area and in files marked "CONFIDENTIAL."

CHAPTER VII
OPEN RECORDS

7-1. Open Records Request.

Any individual seeking to inspect, copy or mechanically reproduce or obtain a reproduction of any public record of the Board should make a written request, signed by themselves to be mailed to the present custodian of the records, Horne, CPA, P.O. Box 22964, Jackson, Mississippi, 39225-2964. This rule is not intended to apply to any record or other document, which is exempt under the provisions of Sections 195-331 et. seq., Mississippi Code Annotated, as amended, or the provisions of the Open Records Act.

The written request must be typed or clearly hand printed on a letter size piece of paper and shall specify in detail the public record sought. The request should include if possible a description of the type of record, dates, title of a publication, and other information which may aid in locating the record.

The written request must specify what the applicant proposes to do with the record, i.e., inspect, copy, etc.; state the date and time for the proposed activity; state the number of persons scheduled to participate; and shall provide the name, address, and home and office telephone number of the applicant.

The custodian of records, upon receipt of any such request, shall review same and determine whether the records sought are exempt and shall either produce the records or allow access to records or deny access to or production of the records sought within fourteen (14) working days of the receipt of the request.

All inspection, copying or mechanical reproduction shall be done in the offices of the Board or such other reasonable place within the State of Mississippi as may be designate by the CMRS Board. It shall be the duty of the applicant to contact the custodian of records by phone before noon of the first working day preceding the proposed date set out in the application to determine if same is acceptable and, if not, what date and/or time will be substituted.

When possible, nonexempt material will be separated from exempt material and only the exempt material will be withheld.

If the custodian of records determines that the records requested are exempt or privileged under the law, he shall deny the request and shall send the person making the request a statement of specific reasons for the denial. Such denials shall be kept on file for inspection by any person for three (3) years.

The custodian of records is authorized to calculate the estimated cost of searching, obtaining from storage, reviewing, shipping and/or duplicating records and to require payment in advance of such estimated charges prior to complying with the request. There shall be a charge of $0.50 per page for each copy. Copies printed on both sides (front and back) shall be considered as two pages for copy charge purposes. Mailing cost shall be calculated at the applicable rate for each such mailing. If the request involves notice be given to a third party, the cost of mailing such notice via certified mail, return receipt requested shall be charged to the person requesting such public records. In the event the actual cost of such activity exceeds the estimate, the custodian of records is authorized to withhold mailing or delivery of said documents or to delay the inspection until the difference is paid

There shall be no charge for inspection of the current CMRS Board records maintained in the custodian of records' office. Cost of obtaining records from any state storage facilities and the search for it shall be charged to the applicant.