

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #2

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: Public Service Commission of West Virginia TITLE NUMBER: 150  
SS24-1-1, 24-1-7, 24-2-1,  
RULE TYPE: Legislative; CITE AUTHORITY 24-2-2, 24A-1-1 and 24A-2-4

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

TITLE OF RULE BEING AMENDED: Rules and Regulations for the Government  
of the Construction and Filing of Tariffs of Public Utilities and  
Common Carriers by Motor Vehicles.

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 28, 1989 AT 4:00 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Howard M. Cunningham, Executive Secretary

Public Service Commission of WV

P.O. Box 812

Charleston, WV 25323

June 27, 1989

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

*Otis D. Casto*

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

WEST VIRGINIA EMERGENCY RULE  
PUBLIC SERVICE COMMISSION  
CHAPTER 24-1  
SERIES 2

RULES AND REGULATIONS FOR  
THE GOVERNMENT OF THE  
CONSTRUCTION AND FILING OF TARIFFS  
OF PUBLIC UTILITIES AND  
COMMON CARRIERS BY MOTOR VEHICLE

1.0 GENERAL

1.1 Scope - These rules govern the construction and filing of tariffs of public utilities in West Virginia subject to the jurisdiction of the Public Service Commission of West Virginia pursuant to West Virginia Code §24-2-1.

1.2 Authority - West Virginia Code §§24-1-1, 24-1-7, 24-2-1, 24-2-2, 24A-1-1, and 24A-2-4a.

1.3 Filing Date - June 27, 1989.

1.4 Effective Date - \_\_\_\_\_.

13. ACCELERATED RATE PROCEDURE FOR GAS, WATER AND ELECTRIC UTILITIES AND COMMON CARRIERS OF SOLID WASTE.

13.4 Rule 30-E. The following accelerated procedure may be used by motor common carriers of solid waste applying for a rate surcharge because of an increase or decrease in the disposal rates, commonly known as tip fees, charged by landfills.

Section A. If any motor carrier of solid waste is required to pay higher tip fees as a result of increased landfill costs, or as a result of a rate filing pending before this Commission, or of any increases imposed by landfills, such motor carrier may file amended tariffs with this Commission stating rates and charges designed to produce additional revenues sufficient, but no more than sufficient to offset such increased costs for tip fees and request an effective date for such amended rates not prior to the date it incurs said higher costs.

The Commission may investigate the reasonableness of the new rates so sought by the motor carrier to determine:

(1) Whether the increase in tip fees is duly authorized and collectible by the landfill, or whether such increase in tip fees has in fact been imposed, if such increase is to occur prior to July 1, 1989;

(2) Whether the increase in rates filed by the motor carrier are no more than sufficient to offset such increased costs;

(3) The effective date of such costs and the permanency thereof; and

(4) The possibility of the motor carrier receiving a refund at the termination of the proceeding in which the increased tip fees are pending.

Any motor carrier using the foregoing procedure shall file a petition simultaneously with the tariff filing, invoking the provision of this rule.

The motor carrier shall file evidence of past solid waste disposal tip fees in the form of copies of bills rendered by the solid waste disposal facility. The minimum data requirement in support of this filing shall be copies of the most recent six months' disposal bills.

Before placing rates into effect pursuant to this procedure, the motor carrier shall enter into an agreement and undertaking that, if it shall receive a refund or reduction of all or part of the higher tip fees upon which are based its increased rates and charges placed into effect as authorized by this procedure, it will comply with such order as the Commission shall thereafter make in reference to such refund or tip fee reduction so received.

Section B. When any motor carrier which has increased its rates pursuant to proceedings under this rule receives a reduction, or a refund, on the tip fees of any landfill whose rates and charges were the basis for the rate increase proceedings under this rule, it shall report promptly to this Commission the new reduced rates and charges so ordered and the annual savings in costs resulting to the motor carrier from such reduction from the date said landfill increased its rates under this rule, or the amount of refund

and the period to which it relates. Whereupon, this Commission may conduct an investigation to determine:

- (1) The amount of the reduction;
- (2) The effective date of the reduction;
- (3) The manner in which, and the extent to which, the motor carrier shall make refunds to its customers as a result of any refund received from a landfill to which it transports solid waste; and
- (4) The manner in which, and the extent to which, the motor carrier shall amend or adjust its rates to give effect to such reduction.

Any motor carrier which invokes the proceedings provided under Section A, hereof shall be deemed to have consented in advance to the proceedings under Section B.

Nothing in this rule shall be construed to prevent the Commission from investigating, in a separate proceeding, whether a motor carrier should absorb all or part of an increase in tip fees from a landfill.

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA  
CHARLESTON, WEST VIRGINIA

RULE 30-E APPLICATION  
COMMON CARRIERS OF SOLID WASTE  
EMERGENCY RATE SURCHARGE

1. Name, address and phone number of Applicant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Area Code (    ) \_\_\_\_\_  
(telephone number)

2. M. C. Certificate Number(s) affected:

\_\_\_\_\_

3. Landfill name and address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Tons dumped at landfill annually <sup>\*</sup> \_\_\_\_\_ tons.  
Old rate per ton [most recent]        \$ \_\_\_\_\_/ton.  
New rate per ton                        \$ \_\_\_\_\_/ton.  
Effective date of new rate            \_\_\_\_\_

5. Number of residential customers [for each certificate] \_\_\_\_\_  
Number of commercial customers [for each certificate] \_\_\_\_\_  
Annual residential revenues <sup>\*</sup>                \$ \_\_\_\_\_  
Annual commercial revenues <sup>\*</sup>                \$ \_\_\_\_\_

6. Copies of solid waste disposal bills for last six months are attached.

\* Most recent 12-month period.

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

NOTICE OF PROPOSED FINAL RULE

RULE TITLE: Emergency Rate Surcharge Application for Common Carriers of Solid Waste to Recover Increase in Tip Fees Pursuant to West Virginia Code, §24A-2-4a.

The attached rule is filed as a Proposed Final Rule. The facts and circumstances constituting the emergency are as follows:

On April 8, 1989, the West Virginia Legislature passed Enrolled Committee Substitute for Senate Bill No. 301 which, inter alia, provided for the pass-through of increases in landfill tip fees as rate surcharges for motor carriers of solid waste. In pertinent part, specifically Code, §24A-2-4a, this enactment provides that common carriers transporting solid waste pursuant to the Commission's jurisdiction may make application to the Commission for approval of a rate surcharge to pass through any increases in disposal rates charged by landfills at which said carriers dispose of solid waste.

Said section also provides that the Commission shall process such rate surcharge applications within fourteen days of the receipt thereof.

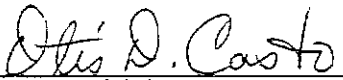
Said section further provides that the Commission shall immediately promulgate emergency rules which set forth the procedures for the filing of the tip fee rate surcharge application in order to provide an expedited process which will allow the subject motor carriers to pass through tip fee increases to all customers. This enactment recognizes, and the Commission is aware, that solid waste common carriers operating in this state are oftentimes faced with rapidly escalating landfill costs (tip fees), the effects of which may not be fully realized or quickly recovered in the context of a more extensive rate case procedure.

West Virginia Code, §29A-3-15 gave the Public Service Commission authority to promulgate emergency rules which are effective upon the filing of such rules, with a statement of facts and circumstances constituting the emergency, in the State Register. An emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety, or welfare.

The Commission is of the opinion that it is now reasonable and necessary to promulgate the rules attached hereto as proposed final

rules in order to respond to the mandate of Code, §24A-2-4a, since said enactment will allow motor carriers of solid waste to apply for rate surcharges on an expedited basis when increases in landfill tip fees occur.

Date: June 27, 1989

  
\_\_\_\_\_  
Otis D. Casto, Commissioner