

Public Service Commission Of West Virginia

Michael D. Greer, Chairman
Otis D. Casto, Commissioner
Charlotte R. Lane, Commissioner



FILED
1986 JUL 28 AM 11:22

201 Brooks Street, P. O. Box 812
Charleston, West Virginia 25323

OFFICE OF THE SECRETARY OF STATE

NOTICE OF EMERGENCY RULE

RULE TITLE: Rules and Regulations for Reduced Rates for Certain Low-Income Residential Customers of Telephone Service.

The attached rule is filed as an Emergency Rule. The facts and circumstances constituting the emergency are as follows:

On March 3, 1986, the West Virginia Legislature passed Enrolled Committee Substitute for Senate Bill 165 (S.B. 165), to be effective July 1, 1986. Said S.B. 165 amends certain sections of Chapter 11 and 24 of the West Virginia Code (Code), creating a program for providing reduced rates for certain low-income residential customers of telephone service, to be known as tel-assistance service. S.B. 165 requires that the Public Service Commission promulgate rules to effectuate the provision of tel-assistance service within 120 days of the effective date. Code §24-2C-4.

In passing S.B. 165, the Legislature found that recent changes in the telecommunications industry have begun to exert an upward pressure on rates for basic telephone service, and that anticipatory action should be taken to preserve the universal telephone service which has been substantially achieved in this State, as universal telephone service is of utmost important to the State and its citizens. Code §24-2C-1.

The Commission is of the opinion that it is reasonable and necessary to promulgate the rules attached hereto as emergency rules in order to ensure that rules and regulations are in effect within 120 days, as required by Code §24-2C-4(b), and to protect the public interest in universal telephone service, as found by the Legislature, in an expeditious manner.

Date: July 28, 1986

Handwritten signature of Michael D. Greer.
Michael D. Greer, Chairman

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

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

RULES AND REGULATIONS FOR
THE GOVERNMENT OF TELEPHONE UTILITIES

10.00 REDUCED TELEPHONE RATES FOR CERTAIN LOW-INCOME RESIDENTIAL CUSTOMERS

10.01 TARIFF FILINGS

Every telephone utility, except cooperative telephone utilities, which provides local exchange dial access line service within the State of West Virginia subject to regulation by the Commission shall, within fifteen (15) days of the adoption of this rule, submit tariff sheets to the Commission for its approval containing a Tel-assistance Residential Service rate schedule. The Tel-assistance Residential Service rate schedule shall provide special reduced rates for certain low income residential customers and shall clearly state the availability of service, the eligibility conditions, the type of service to be offered, the restrictions on service, and the applicable rates and charges as set forth in the subsequent sections of this rule and in West Virginia Code, Chapter 24, Article 2C. Such tariffs, once approved, shall not be changed or modified without prior Commission approval.

10.02 PROVISION OF TEL-ASSISTANCE RESIDENTIAL SERVICE

1. Tel-assistance service shall be made available only to qualified low income customers who are:
 - A. either disabled or age sixty or older; and
 - B. Social security supplemental security income (SSI) benefit recipients, aid to dependent children (AFDC) benefit recipients, aid to dependent children-unemployed (AFDC-U) benefit recipients, food stamp recipients or whose total household income is at or below the income level established for SSI eligibility.
2. Tel-assistance Residential Service shall consist of an individual, residential local exchange dial access line and an allowance for usage. "Usage" means the usage-

sensitive charges for all local, extended area service and toll calls provided by the telephone utility furnishing the tel-assistance service. This service shall be provided through an individual measured or message line at the lowest priced service option available. If measured or message line service cannot be provided, the highest grade of multi-party service available (which shall be deemed to be one-party service where no multi-party service is available) shall be provided at the tel-assistance rate until measured or message service is available. No other local voice telephone service may be provided to the dwelling place of a tel-assistance customer, nor may individual line foreign zone or foreign exchange service be provided.

10.03 RATES AND CHARGES

1. The monthly tel-assistance rate shall be set initially by the Commission at the lower of:
 - A. the lowest priced service available to the customer at the time of his/her application, or
 - B. seven dollars and fifty cents.

This rate shall allow the customer \$2.00 in usage. All usage in excess of \$2.00 shall be charged to the customer at the otherwise applicable tariff rate.

2. The Commission may, upon having set the rate initially for tel-assistance, change such rate from time to time upon a finding that it is reasonable to do so, and may, in connection therewith increase or decrease the usage allowance.
3. A telephone utility may not impose an order processing charge or line charge in changing a customer to or from tel-assistance service. However, charges for other services including those for installing service or for moving a customer's service from one dwelling to another shall be made at the otherwise applicable tariff rate.

10.04 UTILITY'S RESPONSIBILITY UPON APPLICATION

1. Telephone utilities required to offer tel-assistance service shall accept applications for such service

from:

- (a) any current customer, and
- (b) any person who subsequently becomes a customer.

"Customer" shall mean, for the purpose of this rule, the member of the household in whose name telephone service is provided. In determining whether an applicant is eligible to receive tel-assistance service, a utility is entitled to rely upon the information provided to it directly or indirectly by the West Virginia Department of Human Services pursuant to West Virginia Code §24-2C-4(c).

2. Each utility offering tel-assistance service shall maintain documentation regarding the resolution of individual applications. The information contained in said records shall include names, addresses or other information which adequately identifies the applicant, the application date, the source of eligibility, and the date on which tel-assistance service is approved or denied.
3. Any customer who ceases to receive service under a Tel-assistance Residential Service rate schedule must reapply in order to receive such service again.

10.05 CERTIFICATION OF REVENUE DEFICIENCY

1. On or before the first day of March of each year, each utility offering tel-assistance service may make application to the Commission for a determination and certification of the revenue deficiency which it has experienced during the previous calendar year. Subsequently, the Commission will enter an order certifying the amount of the revenue deficiency.
2. The utility's revenue deficiency shall be calculated as the difference between revenues received from customers participating in tel-assistance service and the revenues which would have been received at full tariff rates for the same service as being provided under tel-assistance.
3. Applications for determination and certification of a utility's revenue deficiency shall be made in the

format to be prescribed by the Commission. All information submitted in this application shall be verified by the utility to be true and accurate to the best of its knowledge and information.

10.06 NOTICE TO CUSTOMERS

The telephone utilities subject to this rule shall adopt policies for providing notice to their customers of the availability of and advantages of the tel-assistance program.



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help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

September 8, 1986

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Public Service Commission

RULE: Amendment to Series 6 Rules and Regulations for the Government of Telephone Utilities, Section 10 "Reduced Telephone Rates for Certain Low-Income Residential Customers."

DATE FILED AS AN EMERGENCY RULE: July 28, 1986

DECISION NO. 18-86

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.

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OFFICE OF THE SECRETARY OF STATE

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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

DECISION

Emergency Rule Decision (ERD 18-86)

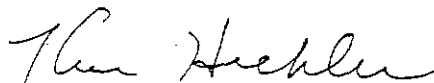
AGENCY: Public Service Commission
RULE: Series 6 Rules and Regulations for the Government of Telephone Utilities. Section 10 "Reduced Telephone Rates for Certain Low-Income Residential Customers."

DATE FILED AS AN EMERGENCY RULE: July 28, 1986

- par. 1 The Public Service Commission (PSC) has filed as emergency rule an amendment to their Series 6 rule titled Rules and Regulations for the Government of Telephone Utilities. This amendment is to Section 10 "Reduced Telephone Rates for Certain Low-Income Residential Customers."
- par. 2 The Series 6 rule regulates the telephone utility service in West Virginia and Section 10 is a new section, governing the tel-assistance service established by SB 165 passed March 3, 1986, to become effective July 1, 1986.
- par. 3 West Virginia Code 29A-3-15A requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope if its statutory authority in promulgating the emergency rule; or 3) can show than an emergency exists justifying the promulgation of an emergency rule.
- par. 4 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [29A-3-15a(a)].
- par. 5 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).

- par. 6 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the ERD is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.
- par. 7 The Public Service Commission has filed this emergency rule with supporting documents with the Secretary of State on July 22, 1986.
- par. 8 It is the determination of the Secretary of State that the Public Service Commission has complied with the procedural requirements of WV Code §29A-3-15.
- par. 9 (B) Statutory Authority -- WV Code §24-2C-4 reads in part:
(b) The public service commission shall establish, by rules and regulations, procedures governing the application for and the provision of tel-assistance service and the determination and certification of the revenue deficiency resulting from the provision of tel-assistance service, including, but not limited to, rules and regulations determining both the methods by which telephone utilities shall maintain records pertaining to such deficiency and the methods by which such deficiency shall be calculated. Such rules and regulations shall be promulgated to section seven, article one of this chapter and adopted within one hundred twenty days of the effective date of this article [July 1, 1986].
- par. 10 It is the determination of the Secretary of State that the Public Service Commission has not exceeded its statutory authority by adopting this rule.
- par. 11 (C) Emergency: WV Code 29A-3-15(g) defines "emergency" as follows:
(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.
- par. 12 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.
- par. 13 The Public Service Commission claims this rule is to comply with a time limitation established by statute.
- par. 14. Par. 9 and WV Code 24-2C-4(b) does establish a 120 day deadline and thus meets the need for emergency filing.

- par. 15 The Secretary of State determines that the Public Service Commission has demonstrated the need to make effective this proposal.
- par. 16 It is the decision of the Secretary of State that this proposal by the Public Service Commission is in procedural compliance with WV Code 29A-3-15; does not exceed the statutory authority of the Public Service Commission; and that the facts and circumstances presented constitute an emergency. Therefore, the Secretary of State decides that this emergency rule should be approved.
- par. 17 This decision shall be cited as Emergency Rule Decision 18-86 or ERD 18-86 and may be cited as precedent. This decision is available from the Secretary of State's office and has been filed with the Public Service Commission, the Attorney General and the Legislative Rule Making Review Committee.



KEN HECHLER
SECRETARY OF STATE

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