

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

Form #6

DO NOT WRITE IN THIS BOX

FILED

SEP 27 9 46 AM '93

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE.

AGENCY: Public Service Commission TITLE NUMBER: 150

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 10

TITLE OF RULE BEING AMENDED: Procedural Rule for Commission Review of  
Electric Cooperatives, Natural Gas Cooperatives, Telephone Cooperatives,  
and Municipal Rate Change pursuant to West Virginia Code Section 24-2-4b.

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

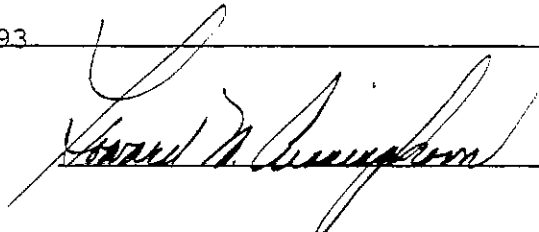
TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) \_\_\_\_\_

SECTION \_\_\_\_\_, PASSED ON \_\_\_\_\_

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON  
THE FOLLOWING DATE: November 26, 1993

  
\_\_\_\_\_

GENERAL ORDER NO. 200.4  
IN THE MATTER OF revision of  
Procedural Rule for Commission  
Review of Electric Cooperatives,  
Natural Gas Cooperatives,  
Telephone Cooperatives and  
Municipal Rate Change Pursuant  
to West Virginia Code §24-2-4b.

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SECRETARY OF STATE

FISCAL NOTE

This is a fiscal note pursuant to West Virginia Code §§24-1-1 and 24-1-7 of the West Virginia Code, as these sections are read in pari materia, with §§29A-3-1 through 29A-3-9 of the West Virginia Code, relating to General Order No. 200.4.

I. OBJECTIVES OF THE RULE

The purpose of this legislative rule is to amend the subject Procedural Rule to include natural gas cooperatives within the Rule, include directives regarding notice to the customers of the utility's or cooperative's intent to effect a rate change, include requirements regarding the information the utility or cooperative must file with the Commission, and make certain technical changes.

II. COST OF IMPLEMENTING THE PROPOSED RULES

A. Cost of Implementation for the State:

There will be no implementation cost relating to this rulemaking for the State of West Virginia, other than the costs related to this rulemaking proceeding.

B. Cost of Implementation for Persons Affected by the Proposed Rule:

The Commission is of the opinion that minimal additional costs will be incurred by the subject utilities as a result of the implementation of these rules.

III. THE EFFECT THIS MEASURE WILL HAVE ON THE COSTS OR REVENUES OF STATE GOVERNMENT (Information required by fiscal notes for either House of the Legislature).

If these proposed legislative rules are adopted in their entirety, any effect on gross revenues flowing to the Commission will be de minimus in nature. Administration costs should experience a de minimus reduction.

IV. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS

The Commission foresees that there may be unpredictable positive economic impact of this rule on the State and on its residents.

September 27, 1993 ~~AGENCY~~ Public Service Commission

SIGNATURE OF AUTHORIZED REPRESENTATIVE



## Brief Summary

The purpose of the proposed rule change is to amend the existing Procedural Rule for Commission Review of Electric Cooperatives, Natural Gas Cooperatives, Telephone Cooperatives and Municipal Rate Change pursuant to West Virginia Code §24-2-4b. The proposed amendments include Natural Gas Cooperatives within the Rule, make certain technical changes to the Rule, add directives regarding notice to the customers of the utility's or cooperative's intent to effect a rate change, and add requirements regarding the information the utility or cooperative must file with the Commission pursuant to West Virginia Code §24-2-4b.

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

TITLE 150  
PROCEDURAL RULES  
PUBLIC SERVICE COMMISSION

SERIES 10  
PROCEDURAL RULE FOR COMMISSION REVIEW  
OF ELECTRIC COOPERATIVES, NATURAL GAS COOPERATIVES,  
TELEPHONE COOPERATIVES AND MUNICIPAL RATE  
CHANGE PURSUANT TO WEST VIRGINIA CODE §24-2-4b

§150-10-1. General.

1.1. Scope. -- In view of the power given to the Commission under §24-2-2, 5, 7, 8 and 9 of the West Virginia Code to regulate the rates and practices of public utilities in this State through lawful rules, regulations and orders, and in view of the limited jurisdiction granted to the Commission over electric cooperatives, natural gas cooperatives, telephone cooperatives and municipally operated utilities by §24-2-4b of the Code, the Commission has developed this Rule to provide guidance to electric cooperatives, natural gas cooperatives, telephone cooperatives and municipalities and to their customers about Public Service Commission involvement with rate changes by such utilities. Provides procedures to be followed by electric cooperatives, natural gas cooperatives, telephone cooperatives, and municipal utilities for changing utility rates, and procedures to be followed by the Commission in its exercise of jurisdiction over such rate changes and This Rule has been developed to provide reasonable guidelines for the exercise of Commission jurisdiction in such cases, and to provide procedural guidelines for the timely disposition of such rates within the statutory requirements of Code §24-2-4b.

1.2. Authority. - W.Va. Code §§24-1-7, 24-2-2, 4b, 5, 7, 8 and 9, and 24-3-2 and 5

1.3. Filing Date. - September <sup>27</sup>, 1983

1.4. Effective Date. - November <sup>26</sup>, 1983

§150-10-2. Rate-Making And Appeal Procedures.

2.1. Procedure to be followed by electric cooperatives, natural gas cooperatives, telephone cooperatives and municipalities for changing utility rates:

(a) All rates and charges set by electric cooperatives, natural gas cooperatives, telephone cooperatives and municipally operated public utilities shall be just, reasonable, applied without unjust discrimination or preference and based primarily on the costs of providing these services.

(b) All such utility rates and charges are to be on file with the Commission at all times.

*(c) // Notice of the intent to effect a rate change shall be specified on the monthly billing statement of the customers of such utility for the month next preceding the month in which the rate change is to become effective or the utility shall give its customers, members and/or stockholders, such other reasonable notice as will allow filing of timely objections to such rate change.*

(c) Following the adoption of rates, the utility must provide its customers with notice of the proposed rate change in order to allow the filing of timely objections to such rate changes with the Commission. The utility shall choose one of the following three methods to provide such service:

(1) Notice of the proposed rate change may be specified on the monthly billing statement of the customers of such utility. The notice must conform with Municipal Rate Change Form No. 1, or Cooperative Rate Change Form No. 1, attached to these rules. The notice must be provided to all customers within five (5) days after the adoption of the ordinance or resolution approving said rate change.

(2) Notice of the proposed rate change may be provided to all customers by First Class Mail, within five (5) days after the adoption of the municipal ordinance or resolution approving said rate change. The notice must conform with Municipal Rate Change Form No. 1, or Cooperative Rate Change Form No. 1, attached to these rules.

(3) Notice of the proposed rate change may be provided by causing to be published, within five (5) days after the

adoption of the ordinance or resolution approving said rate change, in a qualified newspaper of general circulation in the service area of the utility the following:

(i) a press release that announces the adoption of the proposed rate change and contains the substance of Municipal Rate Change Form No. 1, or Cooperative Rate Change Form No. 1; and,

(ii) a Class II Legal Advertisement that conforms with Municipal Rate Change Form No. 1, or Cooperative Rate Change Form No. 1. The first publication must occur with five (5) days after adoption of the rate change.

(4) In addition to providing notice by one of the foregoing methods, the utility must also post notice of the proposed rate change in a conspicuous place at the utility's business premises beginning at least five (5) days prior to the meeting where the rate change is proposed to be adopted and continuing through the thirty (30) day appeal period provided by West Virginia Code §24-2-4b. The posted notice must conform with Municipal Rate Change Form No. 1, or Cooperative Rate Change Form No. 1.

(d) All changes in electric cooperative, natural gas cooperative, telephone cooperative or municipal utility rates and charges are to be accomplished by the adoption of a legally valid governing board resolution or municipal ordinance, in accordance with the provisions of 8-11-4, 8-20-10, 16-13-16 or any other applicable West Virginia Code provision, or by a provision of a municipal or cooperative charter, whichever is appropriate in the particular case.

(e) The utility is to set the date when such a resolution or municipal ordinance shall take effect; however, in no event shall the resolution or ordinance be effective sooner than forty-five (45) days after adoption.

(f) Within ~~thirteen (13)~~ five (5) days after the adoption of a resolution or ordinance changing a utility rate or charge, the electric cooperative, telephone cooperative or municipality shall file with the Secretary of the Public Service Commission:

- (1) the new rates or charges;
- (2) the applicable resolution or ordinance;
- (3) the justification for such resolution or ordinance, including, but not limited to a proforma income statement showing the cost of providing service and revenues to be generated by the new rates or charges;

(4) an affidavit of publication of the utility's legal publication made pursuant to West Virginia Code §§8-11-4, 8-20-10, 16-13-16 or any other applicable West Virginia Code provision which were made prior to adoption of the proposed rates;

(5) documentation reflecting the notice of intent to effect a rate change provided by the utility to its customers, members and/or stockholders pursuant to §24-2-4b of the West Virginia Code and §150.10-2.1(c) of the Rule. If the notice was provided by newspaper publication, the utility must, within twenty (20) days after adoption of the rate change, file a verification that a press release was published and an affidavit of publication of the legal notice; and,

(A) (6) the correct number of customers served by the utility, as determined by the number of bills rendered in the billing cycle last completed before the adoption of the resolution or ordinance. A Rule 42 exhibit is not required to be filed by the utility in cases subject to this rule.

(g) Electric cooperatives, natural gas cooperatives, telephone cooperatives and municipal utilities shall promptly provide information about the correct number of customers, members or stockholders to any such customer, member or stockholder requesting this information.

2.2. Procedure to be followed by the customers, members or stockholders of such utilities who wish to protest changes in their utility rates and charges:

(a) The Commission shall review and approve or modify such rates upon the filing of a petition within thirty (30) days of the adoption of the governing board resolution or municipal ordinance changing said rates or charges by Pursuant to §24-2-4b of the West Virginia Code the following

customer(s), member(s) or stockholder(s) may protest to the Commission, changes in the utility's rates and charges:

(1) Any customer, member or stockholder aggrieved by the changed rates or charges who presents to the Commission a petition signed by not less than twenty-five percent (25%) of the customers, members or stockholders residing within the State, served by such public utility; or

(2) Any customer who is served by a municipally operated public utility and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a petition alleging discrimination between customers within and without the municipal boundaries. Such petition shall be accompanied by evidence of discrimination; or

(3) Any customers or group of customers who are affected by said change in rates who reside within the municipal boundaries and who present a petition to the Commission alleging discrimination between said customers or group of customers and other customers of the municipal utility. Said petition shall be accompanied by evidence of discrimination.

(b) Whenever used in Chapter 24 of the Code or this Rule, the term "Customer" shall mean and include any person, firm, corporation, municipality, public service district or any other entity who purchases a product or services of any utility and shall include any such person, firm, corporation, municipality, public service district or any other entity who purchases such services or products for resale.

(1) This definition refers to customers of record with the utility and cannot be broadened to include all residents of a municipality or those who may be ultimate consumers of the product.

(2) The spouse of a customer of record may sign a petition for the customer of record, but if both parties sign they are to be treated as one customer.

(c) Any protest by a customer(s), member(s) or stockholder(s) must be filed with the Commission within thirty (30) days of the adoption of the governing board resolution or municipal ordinance changing said rates and/or charges.

2.3 Procedure to be followed upon review by the Commission when a petition of protest is filed:

(a) Upon the filing with the Commission of a petition which protests a changed rate or charge by a electric cooperative, natural gas cooperative, telephone cooperative or municipal utility and which meets the requirements of Section 2.2(a)(1) above, the Commission will exercise its jurisdiction over the resolution or ordinance changing such rate or charge, and shall suspend the effective date of the resolution or ordinance changing such rate or charge. Such rate or charge shall be ~~is~~ automatically suspended for a period of one hundred twenty (120) days from the date said rates or charges would otherwise go into effect, or until an order is issued as provided in Section 2.4(b), below.

(b) Upon sufficient showing of discrimination by any customer who resides outside the municipal boundaries, or by a customer or group of customers who reside within the municipal boundaries, under a petition filed under Section 2.2(a)(2) or Section 2.2(a)(3) above, the Commission will exercise its jurisdiction over the resolution or ordinance changing such rate or charge, and shall suspend the effective date of the resolution or ordinance changing such rate or charge for a period of one hundred twenty (120) days from the date said rates or charges would otherwise go into effect or until an order is issued as provided in Section 2.4(b), below.

(c) The Commission shall notify the affected cooperative or municipality by certified mail, return receipt requested, that it has assumed jurisdiction over the case, and that the rate are suspended, and it shall furnish a copy of the applicable petition to the utility.

(d) If any electric cooperative, natural gas cooperative, telephone cooperative or municipality objects to the filing of the petition, it must do so by challenging the validity of the petition. Such challenge should be filed within fifteen days after receipt by the utility of notice that the Commission has assumed jurisdiction. The utility should be prepared to go forward with its evidence on the issue of jurisdiction within thirty (30) days of the filing of the appeal.

These time limits are expected to be sufficient to allow proper preparation of each case. If, for whatever

reason, a cooperative or municipality wishes to file a challenge at a later date, the Administrative Law Judge shall have the discretion to approve such request upon the showing of good cause.

2.4 Procedure for the disposition of cases ~~upon review of~~ over which Commission jurisdiction is established exercised.

(a) At such time as Commission jurisdiction is ~~established~~ exercised in a case involving a rate change by a cooperative or a municipal utility, the Commission shall appoint an Administrative Law Judge from its staff to review the grievances raised by the petitioners.

(b) Said Administrative Law Judge shall conduct a public hearing, and shall, within 100 days from the date the said rates or charges would otherwise go into effect, unless otherwise tolled as provided in Section 2.5, issue an order approving, disapproving or modifying in whole in part, the rates or charges at issue.

(c) In addition to this rule, all relevant rules and regulations of the Commission shall apply to such cases.

(d) The burden of proving the reasonableness of rate changes shall be on the utility and the utility is free to file with the Commission any information it desires to support a change in the rates. The Administrative Law Judge in each case shall direct when all such information is to be filed.

(e) The Commission staff shall in all cases conduct an investigation of the cooperative or municipal utility submit an audit report and cash-flow analysis to the Administrative Law Judge at such time as requested by the judge.

(f) In order to facilitate the timely disposition of such cases, the following timetable is suggested to be followed by the utilities involved and the Commission staff; however, the judge in such cases shall be free to establish any reasonable timetable:

Day 1 - Petition filed.

Day 15 - Any challenge by the utility to the validity of the petition should be received by the Commission.

Day 30 - The utility should be prepared to go forward on the issue of the challenge to the appeal.

Day 63 - The staff must file its required reports.

Day 70 - Public hearing is to be held.

2.5. It is expected that electric cooperatives, natural gas cooperative, telephone cooperatives and municipalities will cooperate with the Commission as much as possible in cases where customers, members or stockholders protest a utility rate change. In circumstances in which a cooperative or a municipality does not file with the Commission any of the information required below, the Commission may toll the running of the one hundred twenty (120) day suspension period and the one hundred (100) day period limitation for issuance of an order by a Administrative Law Judge until such time as the cooperative or municipality files the required information with the Secretary of the Public Service Commission the information required by Section 2.1(f)(1)-(6) and such other information as the Commission deems necessary. ~~following//for the purposes of this order//the information required to be filed with the Commission shall include//but is not limited to//~~

~~(a) //the new rates and charges//~~

~~////////// (b) //the //applicable// cooperative// resolution// or municipal ordinance establishing the new rates and charges//~~

~~////////// (c) //the //justification// for //such //resolutions //or ordinances// including// but not limited to a proforma income statement// showing// the// cost// of// providing// service// and// the revenues to be generated by the new rates or charges//~~

~~(d) //the correct number of customers// members or stockholders served by the utility// as determined by the number of bills rendered in the billing cycle last completed before the adoption of the ordinance// and~~

~~(e) //such other information as the Commission deems necessary//~~

Municipal Rate Change Form No. 1

PUBLIC NOTICE OF CHANGE IN RATES BY MUNICIPALITIES

NOTICE is hereby given that \_\_\_\_\_, a public utility, has adopted by ordinance on \_\_\_\_\_, a tariff containing increased rates, tolls and charges for furnishing service to \_\_\_\_\_ customers at \_\_\_\_\_ in the County(ies) of \_\_\_\_\_.

The proposed increased rates and charges will become effective \_\_\_\_\_ unless otherwise ordered by the Public Service Commission and will produce approximately \$ \_\_\_\_\_ annually in additional revenue, an increase of \_\_\_\_\_%. The average monthly bill for the various classes of customers will be changed as follows:

	(\$)	INCREASE	INCREASE (%)
<u>Residential</u>	\$ _____	_____	_____%
<u>Commercial</u>	\$ _____	_____	_____%
<u>Industrial</u>	\$ _____	_____	_____%
<u>Resale</u>	\$ _____	_____	_____%
<u>Other</u>	\$ _____	_____	_____%

The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges are only a proposal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing. The Commission shall review and approve or modify the increased rates only upon the filing of a petition within thirty (30) days of the adoption of the ordinance changing said rates or charges, by: \_\_\_\_\_

(1) Any customer aggrieved by the changed rates or charges who presents to the Commission a petition signed by not less than twenty-five percent of the customers served by such municipally operated public utility; or

(2) Any customer who is served by a municipally operated public utility and who resides outside the corporate limits and who is affected by the change in said rates or charges and who presents to the Commission a petition alleging discrimination between customers within and without the municipal boundaries. Said petition shall be accompanied by evidence of discrimination; or

(3) Any customer or group of customers who are affected by said change in rates who reside within the municipal boundaries and who present a petition to the Commission alleging discrimination between said customer or group of customers and other customers of the municipal utility. Said petition shall be accompanied by evidence of discrimination.

All petitions should be addressed to The Executive Secretary, Public Service Commission of West Virginia, 201 Brooks Street, P.O. Box 812, Charleston, West Virginia 25323.

A complete copy of the proposed rates, as well as a representative of the Company to provide any information requested concerning it, is available to all customers, prospective customers or their agents at any of the following offices of the Company.

(List with each publication only those offices applicable)

A copy of the proposed rates is available for public inspection at the Office of the Secretary of the PUBLIC SERVICE COMMISSION at 201 Brooks Street, Charleston, West Virginia.

Cooperative Rate Change Form No. 1

PUBLIC NOTICE OF CHANGE IN RATES BY ELECTRIC COOPERATIVE,  
NATURAL GAS COOPERATIVE, AND TELEPHONE COOPERATIVE

NOTICE is hereby given that \_\_\_\_\_, a public utility, has adopted by Board resolution on \_\_\_\_\_, a tariff containing increased rates, tolls and charges for furnishing \_\_\_\_\_ service to \_\_\_\_\_ customers at \_\_\_\_\_ in the County(ies) of \_\_\_\_\_.

The proposed increased rates and charges will become effective \_\_\_\_\_ unless otherwise ordered by the Public Service Commission and will produce approximately \$ \_\_\_\_\_ annually in additional revenue, an increase of \_\_\_\_\_%. The average monthly bill for the various classes of customers will be changed as follows:

	(\$)	<u>INCREASE</u>	<u>INCREASE (%)</u>
<u>Residential</u>	\$	_____	_____%
<u>Commercial</u>	\$	_____	_____%
<u>Industrial</u>	\$	_____	_____%
<u>Resale</u>	\$	_____	_____%
<u>Other</u>	\$	_____	_____%

The increases shown are based on averages of all customers in the indicated class. Individual customers may receive increases that are greater or less than average. Furthermore, the requested rates and charges are only a proposal and are subject to change (increases or decreases) by the Public Service Commission in its review of this filing. The Commission shall review and approve or modify the increased rates only upon the filing of a petition within thirty (30) days of the adoption of the resolution changing said rates or charges, by any customer aggrieved by the changed rates or charges who presents to the Commission a petition signed by twenty-five percent of the membership of the electric, natural gas, or telephone cooperative residing within the state.

All petitions should be addressed to The Executive Secretary, Public Service Commission of West Virginia, 201 Brooks Street, P.O. Box 812, Charleston, West Virginia 25323.

A complete copy of the proposed rates, as well as a representative of the cooperative to provide any information requested

concerning it, is available to all customers, prospective customers or their agents at any of the following offices of the cooperative.

(List with each publication only those offices applicable)

A copy of the proposed rates is available for public inspection at the Office of the Secretary of the PUBLIC SERVICE COMMISSION at 201 Brooks Street, Charleston, West Virginia.



FILED

WILLIAM H. HARRINGTON  
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STATE OF WEST VIRGINIA

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SEP 23 9 30 AM '94

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE  
REGISTRATION  
COMMISSION

(Plus all the volunteer  
help we can get)  
FAX (304) 558-0900

11/3/93

RECEIVED  
MAY 13 PM 5:06

TO: Joyce Martin

AGENCY: Public Service Commission

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: March 14, 1994

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 2 TITLE: 150 Public Service Commission

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: [Signature]

TITLE OF PERSON SIGNING: General Counsel

DATE: 9-19-94

\*\*\*\*\*

\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.