

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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JAN 8 10 06 AM '97

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: WEST VIRGINIA PUBLIC SERVICE COMMISSION TITLE NUMBER: 150CSR15

CITE AUTHORITY Code Section 24-6-10

AMENDMENT TO AN EXISTING RULE: YES NO

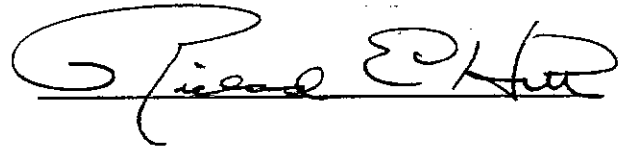
IF YES, SERIES NUMBER OF RULE BEING AMENDED: NA

TITLE OF RULE BEING AMENDED: NA

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 15

TITLE OF RULE BEING PROPOSED: Rules and Regulations For The Use of the
Number "911"

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.



Public Service Commission

Richard E. Hitt, General Counsel



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

Phone: (304) 340-0317
FAX: (304) 340-0372

January 7, 1997

Judy Cooper, Director
Administrative Law Division
Secretary of State's Office
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0771

Re: 150CSR6; G.O. 187.11
Proposed New Rule 9.5
to Series 6

Dear Judy:

On or about September 1, 1996, you received the referenced rulemaking, subject to the legislative rule review process, which proposed to amend Series 6, the Public Service Commission's Telephone Rules, Rule 9.5.

Recently, I have been informed by Counsel for the House Judiciary Committee that they would like substantive changes made to that proposed rulemaking. First, that the rule be set out in a new series and that some additional language be placed in the proposed rulemaking. I have attached the form giving notice of the rule modification pursuant to that request, and I have set out the proposed rule in a new Series 15.

If further changes need to be made, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Hitt".

RICHARD E. HITT
General Counsel
(304)340-0317

REH/mh
Enclosures

15cooper

15prolang
1/6/97

150CSR15

TITLE 150
LEGISLATIVE RULE
PUBLIC SERVICE COMMISSION

SERIES 15
RULES AND REGULATIONS FOR THE USE
OF THE NUMBER "911"

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SECRETARY OF STATE

§150-15-1. General.

1.1. Scope

This rule deals with the use of the number "911".

1.2. Authority

This rule is issued pursuant to legislation passed on March 9, 1996, H.B. 4171 codified at West Virginia Code §24-6-10.

1.3. Filing Date _____

1.4. Effective Date _____

§150-15-2. Prohibition regarding the use of the number "911".

2.1. No person or organization of any kind may use the number "911" in their title or name unless the person or organization is authorized to provide emergency telephone services for firefighting, law enforcement and/or medical personnel by means of the operation of or oversight over one or more local emergency telephone systems as the same are defined in Article 6, Chapter 24 of the West Virginia Code.

2.2. Except as specified below, no person or organization may use the designation "911" for any purpose other than to promote the education of the public regarding "911" service or to otherwise provide information pertaining to local emergency telephone systems as the same are defined in Article 6, Chapter 24 of the West Virginia Code.

2.3. No person or organization may use such numbers which are similar to "911" to deceive the public regarding the user's affiliation with the provision of emergency telephone services for firefighting, law enforcement and/or medical personnel.

2.4. These rules shall not affect motor vehicle license plate numbers issued by the Division of Motor Vehicles, nor shall it affect race cars that use a "911" logo when the number is not used for purpose of deceiving the public that the operator or owner operates "911" services.

150CSR15

2.5. The Public Service Commission may require the modification or discontinuance of distribution of materials which use "911" for the purposes of education of the public, when the Commission determines the educational materials do not accurately reflect the appropriate use of "911" services.

ANALYSIS OF PROPOSED LEGISLATIVE RULE

Agency: Public Service Commission

Subject: Rules and Regulations for the Government of Telephone
Utilities- 150CSR6

Counsel: JAA

PERTINENT DATES

Filed for public comment: July 1, 1996
Public comment period ended: July 31, 1996
Filed following public comment period: August 26, 1996
Filed LRMRC: August 26, 1996
Filed as emergency: n/a

Fiscal Impact: None.

ABSTRACT

Brief Summary

This rule amends a current rule and implements HB 4171 passed during the 1996 regular legislative session. The bill prohibits the use of the numbers "911" in a method calculated to deceive the public regarding the provision of emergency services. The Public Service Commission was given rule-making authority to regulate the use of "911." The rule prohibits the use of the numbers "911" in any name or title not relating to the provision of emergency services.

Section Summary (all sections are new)

Section 9.5.1 provides that no person or organization may use "911" in their title unless that person or organization is authorized to provide emergency services.

Section 9.5.2 states that persons and organizations may use "911" to educate the public or promote "911" services.

Section 9.5.3 prohibits persons or organizations from using "911" or numbers which are similar to "911" in any manner which might deceive the public regarding the person or organization being affiliated with emergency telephone services.

Section 9.5.4 allows the use of "911" on vehicle license

plates and race cars.

AUTHORITY

Statutory authority: W.Va. Code, §24-6-10 provides:

No person or organization of any kind may use "911" or such other numbers which are similar and calculated to deceive the public as representing "911" services in their name unless the person or organization is authorized to provide emergency telephone services for fire-fighting, law enforcement and medical personnel. The public service commission shall propose rules for legislative promulgation in accordance with article three, chapter twenty-nine-a of this code regarding the acceptable use of "911" and shall have the authority to authorize any organization or person to use "911" for the purposes of promoting the education of the public regarding the "911" service. This section may not be construed as affecting motor vehicle license plate numbers issued by the division of motor vehicles, or race cars that use a "911" logo, when the number is not used for purposes of deceiving the public that the operator or owner operates "911" services. Any person or organization convicted of a violation of this section shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars per occurrence.

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

No. The authorizing statute states that the PSC shall "have the authority to authorize any organization or person to use '911' for the purposes of promoting the education of the public regarding the '911' service." The proposed rule provides that "no person or organization may use the designation '911' for any

purpose other than to promote the education of the public...." The PSC is in effect authorizing all persons or organizations to use "911" for education of the public. Counsel's reads the authorizing statute to state that the PSC should authorize educational uses of "911" to assure that educational materials are accurate and correct rather than giving a blanket approval for any educational use of "911".

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

No. WVCS 29A-3-1A require that the when an agency amends a section of a rule that the entire section of that rule be included with the filed rule. This rule was filed with only the new subsection included. This was done because the PSC is generally exempt from legislative review of its rules and including the remainder of the rule would have resulted in legislative approval of a portion of an exempt rule. Counsel suggests that a new rule series number be created especially for this rule, so no future amendments to this or any other PSC rule will cause a statutory conflict.

VIII. OTHER.

Counsel has modifications to suggest.



FILED

DEC 20 3 41 PM '96

OFFICE OF THE SECRETARY OF STATE

West Virginia Legislature
Legislative Rule-Making Review Committee

Room MB47-State Capitol
Charleston, West Virginia 25305
(304) 347-4840

Senator Mike Ross, Co-Chair
Delegate Vicki Douglas, Co-Chair

Debra A. Graham, Counsel
Joe Altizer, Associate Counsel
Marie Nickerson, Adm. Assistant

December 19, 1996

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Mr. Donald L. Darling
Attorney General's Office
Building 1, Room 26-E
State Capitol Complex
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Rules and Regulations for the Government of Telephone Utilities

The Legislative Rule-Making Review committee recommends that the West Virginia Legislature:

- 1. Authorize the agency to promulgate part of the Legislative Rule
(a) as originally filed
(b) as modified by the agency
2. Authorize the agency to promulgate part of the Legislative rule;
a statement of reasons for such recommendation is attached.
3. Authorize the agency to promulgate the Legislative rule with
certain amendments; amendments and a statement of reasons for
such recommendation is attached
4. Authorize the agency to promulgate the Legislative rule as
modified with certain amendments; amendments and a statement
of reasons for such recommendation is attached.
5. Recommends that the rule be withdrawn; a statement of reason
for such recommendation is attached.

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

Senate Bill No. 204

(By Senator(s) Ross, Anderson, Macnaughtan,
Boley and Buckalew)

[Introduced March 3, 1997; referred to the
Committee on the Judiciary.]

10 A BILL to amend article nine, chapter sixty-four of the
11 code of West Virginia, one thousand nine hundred
12 thirty-one, as amended, by adding thereto a new
13 section, designated section eight, relating to
14 authorizing the public service commission to
15 promulgate a legislative rule relating to use of the
16 number "911".

17 *Be it enacted by the Legislature of West Virginia:*

18 That article nine, chapter sixty-four of the code of
19 West Virginia, one thousand nine hundred thirty-one, as
20 amended, be amended by adding thereto a new section,
21 designated section eight, to read as follows:

22 ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND
23 BOARDS TO PROMULGATE LEGISLATIVE RULES.

1 §64-9-8. Public service commission.

2 The legislative rule filed in the state register on
3 the twenty-sixth day of August, one thousand nine hundred
4 ninety-six, under the authority of section ten, article
5 six, chapter twenty-four, of this code, modified by the
6 public service commission to meet the objections of the
7 legislative rule-making review committee and refiled in the
8 state register on the eighth day of January, one thousand
9 nine hundred ninety-seven, relating to the public service
10 commission (rules and regulations for the use of the number
11 "911", 150 CSR 15), is authorized.

12

13 NOTE: The purpose of this bill is to authorize the
14 Public Service Commission to promulgate a legislative rule
15 relating to Use of the Number "911".

16

17 This section is new; therefore, strike-throughs and
18 underscoring have been omitted.

2367

H. B. 2367

1 Bill-PSC, 911

2

(By Delegate(s) Douglas, Hunt, Compton,
Faircloth, Lynch and Riggs)

3

4

5 [Introduced March 3, 1997; referred to the
6 Committee on the Judiciary.]

7

8

9

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150-15

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