

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #5

FILED

MAR 31 3 58 PM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

AGENCY: P. S. C. TITLE NUMBER: 150

CITE AUTHORITY: West Virginia Code §24-1-7 & F.C.C. Order, CC Docket

No. 96-45, May 8, 1987
RULE TYPE: PROCEDURAL _____ INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE X
CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

West Virginia Code §24-1-7, Amendment to existing rule

AMENDMENT TO AN EXISTING RULE: YES _____, NO X

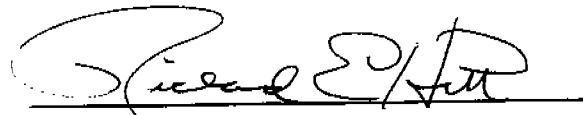
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: 24

TITLE OF RULE BEING ADOPTED: Rules & Regulations for Discounted
Telecommunications Services

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS June 1, 1998



Authorized Signature
General Counsel

\$2.80

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

March 30, 1998

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

Re: Series 24
Discount telecommunications services for
eligible schools and libraries

Dear Judy:

Enclosed for filing are the final rules of the Public Service Commission concerning Series 24, rules establishing discount rates for telecommunications services to schools and libraries. I have included a completed Form 5; a fiscal note; a brief summary of the rule; a statement of circumstances requiring a rule; and a diskette containing the rule in electronic format.

If there are any problems or questions, please bring them to my attention. Thank you in advance for your attention to this matter.

Sincerely,

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

Richard E. Hitt
General Counsel

REH/cbd
Enclosures
cooper14.wpd

FISCAL NOTE

**P.S.C.
Series 24**

IN THE MATTER of references to the Commission's Rules and Regulations Governing Emergency Telephone Service.

I. OBJECTIVES OF THE RULE

The purpose of this rulemaking is to implement a procedure whereby schools and libraries can receive discounted intrastate telecommunications services.

II. COST OF IMPLEMENTING THE PROPOSED RULES:

There will be no significant implementation cost relating to this rulemaking for the State of West Virginia. The Commission does not anticipate additional costs to be incurred as a result of the rulemaking.

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.)

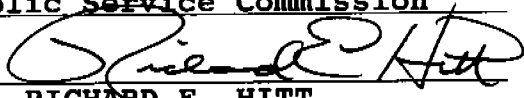
This rulemaking should reduce the cost of intrastate telecommunications services to schools and libraries.

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

This rulemaking should reduce the cost of intrastate telecommunications services to schools and libraries.

DATE: 3-30-98 AGENCY: Public Service Commission

SIGNATURE OF AUTHORIZED REPRESENTATIVE:


RICHARD E. HITT
General Counsel

STATEMENT OF CIRCUMSTANCES REQUIRING RULE

The proposed emergency rules establish a procedure whereby schools and libraries can receive discounted intrastate communications services pursuant to a fund established by the Federal Communications Commission. The rulemaking is necessary for West Virginia schools and libraries to access the discounts.

SUMMARY OF THE RULE

The proposed emergency rules, a new Series 24, establish a procedure whereby schools and libraries can receive discounted intrastate telecommunications services.

The Federal Communication Commission (FCC) has established a fund, capped at 2.25 billion dollars annually, to provide discounts ranging from 20% to 90% of pre-discount prices for interstate services, based on the number of disadvantaged students at each school or library, and whether the school or library is located in a rural or urban area. In addition, the FCC concluded that it should also provide federal universal service support to fund intrastate discounts. However, in order for schools and libraries in West Virginia to receive discounts for intrastate telecommunications services, the State must have in place a procedure for such a discount program which is at least equal to the discounts on interstate services established by the FCC.

The proposed rules establish such a discount program for intrastate telecommunications services.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 31st day of March, 1998.

CASE NO. GENERAL ORDER 187.13

IN THE MATTER OF

Emergency Rules and Regulations Establishing
Discount Rates for Intrastate Telecommunications
Services for Eligible Schools and Libraries in
Accordance with the Telecommunications Act
of 1996.

COMMISSION ORDER

By Order entered June 12, 1997, the Commission promulgated Rules and Regulations for Discounted Telecommunications Services, 150 C.S.R. Series 24, as emergency rules to establish a discount program for intrastate telecommunications and other services for eligible schools and libraries. The emergency rules established discounts at least equal to the Federal discount program established in the Federal Communications Commission's (FCC) "Report and Order," in In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, FCC 97-157 (Rel. May 8, 1997)(FCC US Order), in order to allow West Virginia schools and libraries to begin applying for Federal universal service support for the 1997-1998 calendar year. A copy of the emergency rules was filed with the Secretary of State, in accordance with W. Va. Code §29A-3-15. In addition, the Commission published notice, statewide, of the rules and directed that any interested person could file written comments with the Commission on or before July 15, 1997. The Commission also scheduled a public hearing on the emergency rules to be held in Charleston, WV on July 15, 1997.

A number of persons filed written comments supporting the emergency rules by the July 15, 1997 comment deadline, and several persons submitted comments supporting the emergency rules at the July 15, 1997 public hearing.

DISCUSSION

Based on the support expressed in written comments and comments made at the July 15, 1997 public hearing, the Commission concludes that its Rules and Regulations for Discounted Telecommunications Services, 150 C.S.R. Series 24, establishing an intrastate discount program for eligible schools and libraries, should be adopted as final rules, to become effective sixty (60) days after promulgation thereof.

FINDINGS OF FACT

1. By Order entered June 12, 1997, the Commission promulgated Rules and Regulations for Discounted Telecommunications Services, 150 C.S.R. Series 24, as emergency rules establishing a discount program for intrastate telecommunications and other services for eligible schools and libraries at least equal to the Federal discount program established in the FCC US Order. A copy of the emergency rules was filed with the Secretary of State, in accordance with W. Va. Code §29A-3-15.

2. A number of persons filed written comments supporting the emergency rules by the July 15, 1997 comment deadline, and several persons submitted comments supporting the emergency rules at the July 15, 1997 public hearing.

CONCLUSIONS OF LAW

1. Based on the support expressed in written comments and comments made at the July 15, 1997 public hearing, the Commission concludes that its Rules and Regulations for Discounted

Telecommunications Services, 150 C.S.R. Series 24, establishing an intrastate discount program for eligible schools and libraries should be adopted as final rules, to become effective sixty (60) days after promulgation thereof.

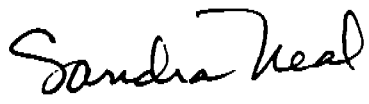
2. A final rule of the Commission cannot become effective until sixty (60) days after its final adoption. W. Va. Code §24-1-7.

ORDER

IT IS, THEREFORE, ORDERED that the Commission's Rules and Regulations for Discounted Telecommunications Services, 150 C.S.R. Series 24, originally promulgated as emergency rules, and establishing an intrastate discount program for eligible schools and libraries, should be adopted as final rules, to become effective June 1, 1998.

IT IS FURTHER ORDERED a copy of the final rules, attached hereto as Appendix A, shall be filed by the Executive Secretary with the Secretary of State.

IT IS FURTHER ORDERED that the Commission's Executive Secretary serve a copy of this Order upon all parties of record by United States First Class Mail and upon Commission Staff by hand delivery.

A True Copy, Teste: 

Sandra Neal
Executive Secretary

PWP/pwp

FILED

150 C.S.R. 24

TITLE 150
LEGISLATIVE RULE
PUBLIC SERVICE COMMISSION

MAR 31 3 57 PM '98

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 24
RULES AND REGULATIONS FOR
DISCOUNTED TELECOMMUNICATIONS SERVICES

§150-24-1. General.

1.1. Scope -- These rules govern the procedure for receiving discounted intrastate telecommunications services for eligible schools and libraries as initially established by the Federal Communications Commission (FCC) in its May 8, 1997 "Report and Order," in In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, FCC 97-157 (Released, May 8, 1997).

1.2. Authority -- West Virginia Code §§24-1-1, 24-1-7, 24-2-1, 24-2-2.

1.3. Filing Date -- March 31, 1998

1.4. Effective Date -- June 1, 1998

1.5. Definitions -- In the interpretation and application of these rules, the Commission adopts and incorporates, as if fully set forth herein, the definitions set forth in 47 C.F.R. §§54.5 and 54.500, attached as Appendix I to the Federal Communications Commission's "Report and Order," in In the Matter of Federal-State Joint Board on Universal Service, CC Docket 96-45, FCC 97-157 (Released, May 8, 1997).

§150-24-2. Eligibility.

Eligibility of schools and libraries for a discount on intrastate telecommunications services shall be determined in accordance with 47 CFR §54.501.

§150-24-3. Discount Mechanism.

Discounts on intrastate telecommunications services for eligible schools and libraries shall be set as a percentage discount from the pre-discount price.

3.1. Discount Percentages --

The discounts available to eligible schools and libraries for intrastate telecommunications services shall range from twenty percent (20%) to ninety percent (90%) of the pre-discount price for all eligible intrastate services provided by eligible providers, as defined in 47 CFR Part 54, Subpart F. The discounts available to a particular school, library, or consortium of only such entities

shall be determined by indicators of poverty to high cost.

3.1.1. For schools and school districts, the level of poverty shall be measured by the percentage of their student enrollment that is eligible for a free or reduced price lunch under the national school lunch program or a federally-approved alternative mechanism. Counties or the State, applying for eligible services on behalf of their individual schools, may calculate the county-wide percentage of eligible students using a weighted average. For example, a county would divide the total number of students in the county eligible for the national school lunch program by the total number of students in the county to compute the county-wide percentage of eligible students. Alternatively, the county could apply on behalf of individual schools and use the respective percentage discounts for which the individual schools are eligible.

3.1.2. For libraries and library consortia, the level of poverty shall be based on the percentage of the student enrollment that is eligible for a free or reduced price lunch under the national school lunch program or a federally-approved mechanism in the public school district or county in which they are located. If the library is not in a school district then its level of poverty shall be based on an average of the percentage of students eligible for the national school lunch program in each of the school districts that children living in the library's location attend. Library systems applying for discounted services or facilities on behalf of their individual branches shall calculate the system-wide percentage of eligible families using, an unweighted average based on the percentage of the student enrollment that is eligible for a free or reduced price lunch under the national school lunch program in the public school district in which they are located for each of their branches or facilities.

3.2. Classification of Schools and Libraries --

Schools and libraries shall be classified as "urban" or "rural" based on location in an urban or rural area, according to the following designations.

3.2.1. Schools and libraries located in metropolitan counties, as measured by the federal Office of Management and Budget's Metropolitan Statistical Area method, shall be designated as urban, except for those schools and libraries located within metropolitan counties identified by census block or tract in the Goldsmith Modification.

3.2.2. Schools and libraries located in non-metropolitan counties, as measured by the Office of Management and Budget's Metropolitan Statistical Area method, shall be designated as rural. Schools and libraries located in rural areas within metropolitan counties identified by census block or tract in the

Goldsmith Modification shall also be designated as rural.

§150-24-4. Matrix.

The matrix attached as "Table A" shall be used to set a discount rate to be applied to eligible intrastate services and facilities purchased by eligible schools, school districts, libraries, or library consortia based on the institution's level of poverty and location in an "urban" or "rural" area.

§150-24-5. Consortia.

Consortia applying for discounted services or facilities on behalf of their members shall calculate the portion of the total bill eligible for a discount using a weighted average based on the share of the pre-discount price for which each eligible school or library agrees to be financially liable. Each eligible school, county, library or library consortia will be credited with the discount to which it is entitled.

§150-24-6. Application for Funding.

Application for discounts on intrastate telecommunications services provided to schools and libraries under this section shall be made in accordance with 47 C.F.R. Part 54, Subpart F.

§150-24-7. Funding of Discounts.

Funding for discounts on intrastate telecommunications services provided to schools and libraries under this section shall be provided from the federal universal service fund in accordance with 47 CFR Part 54, Subpart F.

TABLE A, 150 CSR 24

| SCHOOLS & LIBRARIES DISCOUNT MATRIX | DISCOUNT LEVEL | |
|---|-------------------|-------------------|
| | urban discount | rural discount |
| HOW DISADVANTAGED? | | |
| % of students eligible for national school lunch program | | |
| <1 | 20 | 25 |
| 1-19 | 40 | 50 |
| 20-34 | 50 | 60 |
| 35-49 | 60 | 70 |
| 50-74 | 80 | 80 |
| 75-100 | 90 | 90 |