

Public Service Commission

Richard E. Hitt, General Counsel



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April 20, 1999

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

Re: Cable Television Rules

Dear Judy:

We weren't able to spend a great deal of time making changes to the existing cable television rules. Generally, all references to the Board in the existing rules should be changed to the Public Service Commission. All references to Chapter 5, Article 18, Section 1 et seq. of the West Virginia Code should be changed to West Virginia Code Section 24D-1-1 et seq. I have tried to make all these changes throughout the rules but I may have missed a couple of spots.

After these rules have been revised, I would appreciate a diskette that contains the rules. During the process of reviewing these rules, it is apparent to the Commission that we will need to engage in a fairly comprehensive rulemaking in the near future.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Hitt", written over a horizontal line.

Richard E. Hitt
General Counsel

REH/cbd
Enclosure
rickmisc.cooper17 vpd

TITLE 150
PROCEDURAL RULE
CABLE TELEVISION ADVISORY BOARD
SERIES 29
RATE REGULATION PROCEDURES

Aug 28, 93

Ed Note: HB 2453 passed March 13, 1999 and effective June 11, 1999 authorizes the PSC to adopt rules concerning cable television. In §24D-1-23(b) the bill states: "The rules and regulations promulgated by the cable advisory board pursuant to repealed §5-18-1 and in effect on December 31, 1997, shall remain in effect and hereby become the rules and regulations of the commission." This was 187CSR4.

§150-29-1. General.

1.1. Scope. -- This procedural rule establishes the procedures necessary for the ~~West Virginia Cable Television Advisory Board~~ ^{Commission} to obtain certification from the Federal Communications Commission pursuant to 47 U.S.C. §543 and fulfill its mandate under W. Va. Code ~~§5-18-16(b)~~ ^{§24D-1-1 et seq} to regulate rates to the extent permitted by federal law.

1.2. Authority. -- W. Va. Code ~~§5-18-16(b)~~ ^{§24D-1-1 et seq} and 26(b).

1.3. Filing Date. -- June 11, 1999.

1.4. Effective Date. -- June 11, 1999.

§150-29-2. Introduction.

2.1. The ~~West Virginia Cable Television Advisory Board~~ ^{Commission} (hereinafter the "Board") is authorized by W. Va. Code ~~§5-18-16~~ ^{§24D-1-1 et seq} to regulate rates and charges of cable television systems to the extent allowed by federal law. The Congress of the United States established a national policy concerning cable communications. (P.L. 98-549 as codified at 47 U.S.C. §521 et seq.) Subsequently, Congress amended this national policy to allow limited regulation of rates and charges by franchising authorities including the Board. (P.L.

102-305) However, the ~~Board~~ ^{Commission} must become certified with the Federal Communications Commission (hereinafter "FCC") before the ~~Board~~ ^{Commission} may undertake regulation of rates and charges. (47 U.S.C. §543) Part of the certification criteria is the requirement that the ~~Board~~ ^{Commission} adopt regulations consistent with the FCC's regulations regarding rates subject to regulation under 47 U.S.C. §543 and that the ~~Board~~ ^{Commission} adopt regulations regarding rate regulations proceedings which provide a reasonable opportunity for the consideration of the views of interested parties.

§150-29-3. Definitions.

3.1. For the purposes of this Rule:

3.1.1. The term "interested party" (or "parties") means any person who will be directly affected by a request for an increase in rates or charges submitted to the ~~Board~~ ^{Commission} for approval.

3.3.2. The term "person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity including any franchising authority.

§150-29-4. Regulations of rates and charges.

4.1. The ~~Board~~ ^{Commission} will follow the rate regulations now or in the future promulgated by the

FCC and all rate regulation proceedings shall be in accord with such FCC regulations. All parties to any rate regulation proceeding before the Board should make reference to and consult the appropriate FCC regulations.

gent notice of intent such reasonable notice of the hearing as may be possible.

Commission

§150-29-5. Consideration of the views of interested parties.

5.1 Any interested party shall be allowed to present his/her/its views regarding any request for cable rate approval to the Board for consideration.

Any interested party may make a written submission by hand delivery or by United States 'nail return receipt requested, which must be received at the Board's offices no later than ten (10) calendar days prior to the first date the Board is required to act on any request for cable rate approval. If the Board invokes its authority to extend the time allowed for consideration of any request, no written submission may be filed during the extension period. In addition to or in lieu of a written submission, any interested party may appear before the Board at any meeting at which any request for cable rate approval is to be considered. As the Board is not required by federal law to hold a hearing on any request for cable rate approval, any interested party desiring to speak at a hearing, if one is held, shall notify the Executive Secretary of the Board of such intent no later than the last business day before any such hearing is to be held. When any request for cable rate approval is filed with the Board, any interested party may file with the Executive Secretary a contingent statement of intent to make an appearance at any hearing. The interested party shall provide the Executive Secretary such information as the Executive Secretary may deem necessary for purposes of giving notice (telephonically, if possible, and/or by United States mail return receipt requested if feasible) of any hearing which may be scheduled pursuant to such request for cable rate approval. In the event a hearing is scheduled, the Executive Secretary shall give any interested party which has filed a contin-

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