

FILED

2003 DEC 29 A 9:10

Secretary of State's Office  
Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

*State of West Virginia*  
*Joe Manchin, III*  
*Secretary of State*

Telephone: (304) 558-6000  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE  
TOLL FREE: 1-800-558-SOS-VOTE  
Corporations: (304) 558-8000  
FAX: (304) 558-0900  
www.wvsos.com

December 17, 2003

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: PUBLIC SERVICE COMMISSION OF WV

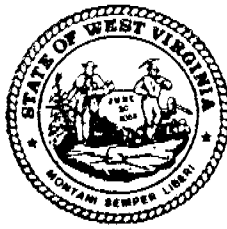
RULE: NEW RULE, 150CSR29, RULES FOR STATEWIDE TELEPHONE  
INFORMATION & REFERRAL 211 SERVICE

DATE FILED AS AN EMERGENCY RULE: DECEMBER 11, 2003

DECISION NO. 17-03

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

  
JOE MANCHIN, III  
Secretary of State



Secretary of State's Office  
Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

*State of West Virginia*  
*Joe Manchin, III*  
*Secretary of State*

Telephone: (304) 558-6000  
Toll Free: 1-866-SOS-VOTE  
Corporations: (304) 558-8000  
FAX: (304) 558-0900  
www.wvsos.com

**EMERGENCY RULE DECISION  
(ERD 17-03)**

**AGENCY: PUBLIC SERVICE COMMISSION OF WV**

**RULE: NEW RULE, 150CSR29, RULES FOR STATEWIDE TELEPHONE INFORMATION & REFERRAL 211 SERVICE**

**DATE FILED AS AN EMERGENCY RULE: DECEMBER 11, 2003**

- par. 1 The Public Service Commission of WV (PSC) has filed the above new rule as an emergency rule.
- par. 2 W. Va. 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 of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 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].
- par. 4 (A) Procedural Compliance: W. Va. 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. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision 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. 6 The PSC filed this emergency rule with supporting documents with the Secretary of State December 11, 2003 and with the LRMRC December 11, 2003.

par. 7 It is the determination of the Secretary of State that the PSC has complied with the procedural requirements of W. Va. Code §29A-3-15 for adoption of an emergency rule.

par. 8 (B) Statutory Authority -- W. Va. Code §§24-8-1 and 24-8-2 reads:

**§24-8-1. Legislative findings.**

*The Legislature finds that it is in the best interest of the citizens of West Virginia to implement the universally, free access telephone number "211" made available by the federal communications commission for states to develop an information and referral source for human and social services. The "211" system will provide a vital resource to the citizens of West Virginia for social and human service information and referral by providing a critical connection between individuals and families in need and the appropriate community-based organizations and government agencies.*

*The Legislature further finds that implementing the "211" information and referral system will serve as a centralized resource for human and social service professionals, medical personnel, government agencies and charitable organizations by providing a full spectrum of service options to the citizens of West Virginia. The "211" system will also serve as a centralized point in times of natural disasters or national emergencies by providing access to information for the coordination of relief.*

*Therefore, the Legislature authorizes and directs the public service commission to implement the "211" information and referral system in accordance with the recommendations of the public service commissions' appointed task force as reported to the Legislature.*

**§24-8-2. Rule-making authority.**

*The public service commission shall propose rules for legislative promulgation in accordance with article three, chapter twenty-nine-a of this code regarding the implementation and administration of this system. From the effective date of this section until the date of the promulgation of these rules, the commission may file rules as emergency rules in accordance with the applicable provisions of this code in order to implement and administer this system.*

par. 9 It is the determination of the Secretary of State that the PSC has not exceeded its statutory authority in promulgating this emergency rule.

par. 10 (C) Emergency -- W. Va. Code §29A-3-15(f) defines "emergency" as follows:

*(f) 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. 11 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. 12 The facts and circumstances as presented by the PSC are as follows:

The agency is proposing that the emergency rules take effect no later than December 31, 2003. The funds necessary to implement 211 service are in the form of a \$125,000 grant from the Benedum Foundation. If not allocated by December 31, 2003, this grant will no longer be available. Other potential funding may be contingent upon receipt of the Benedum grant.

par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in §29A-3-15(f). . . "immediate preservation of public peace, health, safety or welfare" & "to prevent substantial harm to the public interest"

par. 14 This decision shall be cited as Emergency Rule Decision 17-03 or ERD 17-03 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the Public Service Commission of WV, the Attorney General and the Legislative Rule Making Review Committee.

  
\_\_\_\_\_  
JOE MANCHIN, III  
Secretary of State

Entered \_\_\_\_\_

FILED  
2003 DEC 29 A 9:10  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE