

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #5

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JUL 28 3 26 PM '93

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: West Virginia Cable Television Advisory Board TITLE NUMBER: 187

CITE AUTHORITY: W. Va. Code § 5-18-16(b) and 26(b)

RULE TYPE: PROCEDURAL INTERPRETIVE

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

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: 4

TITLE OF RULE BEING ADOPTED: Rate Regulation Procedures

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS August 28, 1993

Mary Collins

TITLE 187
PROCEDURAL RULE
CABLE TELEVISION ADVISORY BOARD

SERIES 4
RATE REGULATION PROCEDURES

SUMMARY OF PROPOSED RULE

This rule provides that the West Virginia Cable Television Advisory Board will follow regulations promulgated by the Federal Communications Commission (FCC) for the regulation of cable television rates. Federal law preempts state law on the regulation of cable television rates. However, federal law allow state or local governments to engage in partial rate regulation if the state or local government agrees to follow FCC regulations. This regulation meets that requirement. Also, as required by federal law, this regulation provides a reasonable opportunity for interested parties, as defined in the regulation, to express their views on and request for cable rate approval.

TITLE 187
PROCEDURAL RULE
CABLE TELEVISION ADVISORY BOARD

SERIES 4
RATE REGULATION PROCEDURES

§ 187-4-1. General.

1.1. Scope. -- This procedural rule establishes the procedures necessary for the West Virginia Cable Television Advisory Board 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) to regulate rates to the extent permitted by federal law.

1.2. Authority. -- W. Va. Code §§ 5-18-16(b) and 26(b).

1.3. Filing Date. -- July 28, 1993.

1.4. Effective Date. -- July 28, 1993.

§ 187-4-2. INTRODUCTION.

2.1. The West Virginia Cable Television Advisory Board (hereinafter the "Board") is authorized by W. Va. Code § 5-18-16 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 must become certified with the Federal Communications Commission (hereinafter "FCC") before the Board may undertake regulation of rates and charges. (47 U.S.C. § 543) Part of the certification criteria is the requirement that the Board adopt regulations consistent with the FCC's regulations regarding rates subject to regulation under 47 U.S.C. § 543 and that the Board adopt regulations regarding rate regulations proceedings which provide a reasonable opportunity for the consideration of the views of interested parties.

§ 187-4-3. 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 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.

§ 187-4-4. REGULATIONS OF RATES AND CHARGES.

4.1. The Board 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.

§ 187-4-5. 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 mail, 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 contingent notice of intent such reasonable notice of the hearing as may be possible.

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PROCEDURAL RULE
CABLE TELEVISION ADVISORY BOARD

**OFFICE OF WEST VIRGINIA
SECRETARY OF STATE**

SERIES 4
RATE REGULATION PROCEDURES

REPORT ON COMMENT PERIOD

The Comment Period with respect to the above-referenced procedural rule expired July 12, 1993, pursuant to notice sent to the Secretary of State's office for publication in the State Register on June 11, 1993.

No comments were received.

For further information, please contact Donald L. Darling, Senior Deputy Attorney General, Director of the Antitrust and Consumer Protection Division, 812 Quarrier Street, Sixth Floor, Charleston, West Virginia 25301.



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STATE OF WEST VIRGINIA

SECRETARY OF STATE

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RECEIVED

JAN 12 1994

WV CABLE TV
ADVISORY BOARD

TO: Mary Collins

AGENCY: Cable TV Advisory Bd.

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: January 11, 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: 4 TITLE: 187 Cable TV Advisory Bd.

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: Donald H. Darling

TITLE OF PERSON SIGNING: Legal Counsel

DATE: January 28, 1994

* 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.