



*Public Service Commission*

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August 11, 2020

West Virginia Secretary of State  
Attn: Maureen Lewis, Director  
Office of the Secretary of State  
State Capitol Building  
Charleston, WV 25305

FILED  
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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**Re: Repeal of Rules**

Dear Ms. Lewis;

By this letter, the Public Service Commission of West Virginia repeals, effective today, three rule series pursuant to Rule 5.17 of the Electronic Filing and Formatting of Rules, 153 C.S.R. 1 (Rule 5.17<sup>1</sup>):

1. Rules and Regulations for the Government of Intrastate Rail Transportation,  
150 C.S.R. 12,

This series sets forth standards and procedures for regulation of railroad rates, classifications, rules and practices in conformity with the Interstate Commerce Act. It was first promulgated on October 18, 1981, and was subsequently modified on August 27, 1990, March 5, 1990 and July 16, 1985. The series should be repealed because state economic regulation of railroads was preempted by the federal Interstate Commerce Commission Termination Act of 1995, 49 U.S.C.S. § 10101 *et seq.* which repealed the Interstate Commerce Act.

2. Rules and Regulations for Carrier Access to the Lines and Facilities of Other Carriers,  
150 C.S.R. 18

This series sets forth procedures and requirements and the terms of compensation for a carrier to obtain access to the lines and facilities of a rail carrier located in the State

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<sup>1</sup> "When repealing a legislative-exempt, procedural or interpretive rule, a letter signed by the agency head will be filed. The letter will indicate the name of the agency, the title and service number of the rule, the name of the rule, the effective date of the rule and the date the repeal will be effective."

of West Virginia pursuant to the legislative mandate in W.Va. Code §24-3-3b. The series was first promulgated on December 12, 1987 and has not been modified. The series should be repealed because the Legislature repealed the enabling statute in 2014.

3. Rules and Regulations for Shipper Access to the Lines and Facilities of Rail Carriers,  
150 C.S.R. 19

This series sets forth procedures and requirements and the terms of compensation for a shipper to obtain access to the lines and facilities of a rail carrier located in the State of West Virginia pursuant to the legislative mandate in W.Va. Code §24-3-3b. The series was first promulgated on December 12, 1987 and has not been modified. The series should be repealed because the Legislature repealed the enabling statute in 2014.


The Commission and its rules are Legislative exempt (W.Va. Code §§ 24-2-7, 29A-1-2(d), and 29A-1-3(b)), and, therefore, repeal of these rule series by letter is authorized by Rule 5.17.

Pursuant to W.Va. Code § 29A-1-2(d), a Legislative exempt rule “means every rule promulgated by an agency or relating to a subject matter that is exempt from the rulemaking provisions of article three [§§ 29A-3-1 et. seq.] of this chapter, under section three[§29A-1-3], article one of this chapter or any other section of this code.”

On August 11, 2020, the Commission issued General Orders 208.08, 237.01, and 238.01 repealing these rule series.

Please let me know if you have any questions or require any additional information.

Sincerely,



Jessica M. Lane  
General Counsel

cc: Charlotte R. Lane, Chairman  
Brooks F. McCabe, Jr., Commissioner  
Renee A. Larrick, Commissioner