WEST VIRGINIA CODE CHAPTER 24 ARTICLE 2C

WV Legislature

§24-2C-1. Legislative findings; utilities subject to Public Service Commission to file new rates.

(a) The Legislature finds that universal telephone service contributes to the state's economic, social and political integration and development. The preservation of universal telephone service is therefore of utmost importance to the state and its citizens.

(b) Recent changes in the telecommunications industry, however, both in its structure and in the national policy which governs it, have begun to exert a general, upward pressure on the rates for basic telephone service. Although neither the extent to which basic telephone rates may rise in the future, nor the effect of any such future increases on the general affordability of telephone service can be ascertained at this time, the Legislature finds that anticipatory action should nonetheless be taken to preserve the universal telephone service which has been substantially achieved in this state.

(c) All eligible telecommunications carriers providing local exchange dial access line service subject to the jurisdiction of the Public Service Commission shall file with the commission tariffs providing for the offering of a new class of basic residential service, at a special reduced rate, to certain low-income households. Such tariffs shall be filed after the adoption of the rules mandated by subsections (b) and (c), section four of this article.

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§24-2C-2. Tel-assistance; definitions.

For purposes of this article, the following terms apply:

(a) "Eligible telecommunications carrier" means a common carrier that offers telephone services that are supported by federal universal service support mechanism, advertises the availability of such services and the charges for the services using media of general distribution, and that otherwise is qualified as an eligible telecommunications carrier pursuant to the provisions of 47 U.S.C. Section 214.

(b) "Qualifying low-income consumer" means a consumer who is a recipient of Medicaid, food stamps, supplemental security income, federal public housing assistance, low-income home energy assistance program benefits, temporary assistance to needy families benefits or other income-related state or federal programs.

(c) "Tel-assistance service" means a wholly measured or message individual, residential local exchange dial access line offered through the provisions of this article and that provides for an allowance for usage not to exceed $2 in value.

(d) "Usage" means the local exchange service and the long distance service provided by the eligible telecommunications carrier furnishing the tel-assistance service.

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§24-2C-3. Monthly rate set by Public Service Commission; prohibited and permissible charges.

(a) The monthly rate for tel-assistance service shall be set initially by the commission at the lower of: (1) The lowest priced service available to the consumer at the time of his or her application; or (2) $7.50. All usage exceeding $2 in value shall be charged for at the otherwise applicable tariff rate. No other local voice telephone service may be provided to the dwelling place of a tel-assistance consumer, nor may individual line foreign zone or foreign exchange service be provided to a tel-assistance consumer. An eligible telecommunications carrier may not impose an order processing charge or line charge when an existing consumer who is eligible for tel-assistance service changes to such service, nor may any charge be made when a tel-assistance service consumer loses his or her eligibility and changes to another class of residential service: Provided, That charges for the initial installation of service for a new consumer, or charges for moving a consumer's service from one dwelling place to another shall be made at the otherwise applicable tariff rate.

(b) The commission may, upon having set the rate initially for tel-assistance service as herein provided, change such rate from time to time upon a finding that is reasonable to do so, and may, in connection therewith increase or decrease the amount of local service usage provided as a part thereof.

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§24-2C-4. Availability of tel-assistance service; determination of eligibility; promulgation of rules.

(a) All eligible telecommunications carriers shall make tel-assistance services available to qualified low-income consumers pursuant to tariffs or agreements filed with and approved by the Public Service Commission.

(b) Insofar as permitted under federal law, eligible telecommunications carriers may file with the Public Service Commission tariffs or agreements that, without limitation, offer tel-assistance service which includes a broader group of services, or make tel-assistance service available to a broader group of low-income residential consumers.

(c) The Public Service Commission shall establish rules to implement the provisions of this article. The rules shall include, but not be limited to, procedures governing the application for and the provision of tel-assistance service; the determination, calculation and certification of the revenue deficiency resulting from the provision of tel-assistance service; criteria for establishing maximum levels of revenue deficiencies that may be claimed; establishing the methods by which telephone utilities shall maintain records pertaining to such deficiency and the methods by which such deficiency shall be calculated; and providing for alternate methodologies to simplify the record keeping of the eligible telecommunications carriers. The rules shall be promulgated pursuant to section seven, article one of this chapter and adopted within one hundred twenty days of the effective date of this article. The Public Service Commission shall timely amend the rules thereafter as may be required by any provision of state or federal law.

(d) The Department of Human Services shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to establish, procedures to inform eligible telecommunications carriers of the eligibility of applicants for tel-assistance service, to assist applicants for tel-assistance service in proving their eligibility therefor, to determine on a continuing basis the eligibility of persons receiving tel-assistance service, and communicate such determinations to the eligible telecommunications carriers. Initially, rules shall be adopted and filed in the state register within one hundred twenty days of the effective date of this article and shall not otherwise be subject to the requirements of chapter twenty-nine-a of this code. Rules promulgated pursuant to this subsection shall become effective immediately upon filing in the state register and remain in effect until supplanted by legislative rules promulgated pursuant to chapter twenty-nine-a of this code.

(e) The secretary of the Department of Human Services or the Public Service Commission may propose emergency rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement additional provisions of this article as may be required.

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§24-2C-5. Recovery of revenue deficiencies.

(a) In order to provide the special reduced rate mandated by section one of this article and still maintain the integrity of the earnings of the eligible telecommunications carriers offering tel-assistance service, the commission shall determine, upon application by any affected eligible telecommunications carrier, that eligible telecommunications carrier's revenue deficiency for the eligible telecommunications carrier's taxable year resulting from the special reduced rates. Upon determining any eligible telecommunications carrier's revenue deficiency, the commission shall issue an order certifying the amount of that deficiency. Certified revenue deficiencies shall thereafter be recovered by the affected eligible telecommunications carrier as follows:

(1) An eligible telecommunications carrier's certified revenue deficiency, if any, resulting from the provision of tel-assistance service shall be allowed as a tax credit against the liability of the eligible telecommunications carrier pursuant to the provisions of article thirteen-g, chapter eleven of this code.

(2) After allowance of such a tax credit pursuant to the provisions of article thirteen-g, chapter eleven of this code, an eligible telecommunications carrier's remaining certified revenue deficiency, if any, resulting from the provision of tel-assistance service shall be allowed as a tax credit against the liability of the eligible telecommunications carrier pursuant to the provisions of section eleven-a, article twenty-four, chapter eleven of this code.

(b) An eligible telecommunications carrier's revenue deficiency under the provisions of section five of this article shall be limited to the amounts generated from providing tel-assistance service to qualified low-income consumers who are either disabled or age sixty or older. The agreements or tariffs required by this article shall specify the methodology by which the eligible telecommunications carrier will calculate the revenue deficiency, and may include a provision to freeze the revenue deficiency at certain levels as determined by the Public Service Commission. No such agreement or tariff by an eligible telecommunications carrier may be effective unless first approved by the Public Service Commission.

(c) In determining such revenue deficiency in the case of resale of tel-assistance service, the commission shall allocate the revenue deficiency between the eligible telecommunications carrier that physically provided the tel-assistance line, and the eligible telecommunications carrier that provided the tel-assistance service at retail to an eligible consumer. Such allocation shall be based on the wholesale resale discount applicable to such tel-assistance service.

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