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Details: Emergency Rule extension requests by Public Service Commission.
(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Joint

(Assembly, Senate or Joint)

Committee for Review of Administrative Rules ...

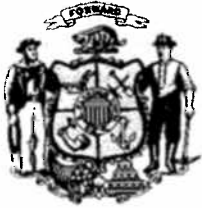
COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Stefanie Rose (LRB) (June 2012)



Public Service Commission of Wisconsin

Eric Callisto, Chairperson
Mark Meyer, Commissioner
Lauren Azar, Commissioner

610 North Whitney Way
P.O. Box 7854
Madison, WI 53707-7854

January 7, 2010

Senator Jim Holperin, Co-Chair
Committee on Administrative Rules
State Capitol, Room 409 South
PO Box 7882
Madison, WI 53707-7882

Representative Josh Zepnick
Committee on Administrative Rules
State Capitol, Room 219 North
P.O. Box 8953
Madison, WI 53708

Dear Senator Holperin and Representative Zepnick:

The Commission is requesting that the effective period of Wis. Admin. Code ch. PSC 172 related to the police and fire protection fee created under 2009 Wisconsin Act 28 be extended for 60 days. This rule went into effect on September 11, 2009. If you would like a copy of the rule, please contact Kerry Doeringsfeld at 267-2889 or e-mail Kerry.doeringsfeld@wisconsin.gov.

An emergency exists and the rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. The police and fire protection fee is used to replace shared revenue payments for such services. To ensure the public peace, health, safety, and welfare of the citizens of Wisconsin, it is vital for funding of police and fire protection services to continue smoothly, quickly, and unimpeded.

A hearing on this rule, and the permanent rule, took place on December 2, 2009. Written comments were due December 15, 2009. While the Commission is finalizing the legislative packet for this rule, it will not be submitted in the next few days. The legislature will have 30 days to act. Thus, the permanent rule will not be in effect when the emergency rule expires. As a result, the Commission respectfully requests this extension.

Sincerely,

Joyce Mahan Dingman
Assistant General Counsel

JMD:kcd:g:Rules/Active/1-AC-228/Emergency Rule/final Documents/Req to extend effective period

cc: Senate Chief Clerk Robert J. Marchant
Assembly Chief Clerk Patrick E. Fuller

BEFORE THE

PUBLIC SERVICE COMMISSION OF WISCONSIN

Police and Fire Fee Emergency Rule

1-AC-228

ORDER ADOPTING EMERGENCY RULES

The Public Service Commission of Wisconsin (Commission) proposes an order to create ch. PSC 172 related to the police and fire protection fee created under 2009 Wisconsin Act 28.

FINDING OF EMERGENCY

The Commission finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. The police and fire protection fee, which must go into effect September 1, 2009,¹ will be used to replace shared revenue payments for such services. To ensure the public peace, health, safety, and welfare of the citizens of Wisconsin, it is vital for funding of police and fire protection services to continue smoothly, quickly, and unimpeded. Thus, it is necessary for the rule administering the fee to be implemented as soon as possible.

TEXT AND ANALYSIS OF THE RULE

The text and a plain language analysis of the rule are attached as Attachments A and B.

¹ 2009 Wisconsin Act 28, s. 9441.

FISCAL ESTIMATE

Section 196.025 (6), Stats., and thus this rule implementing it, has a fiscal impact as it will increase costs to businesses and government, although it may be possible to absorb them. The fee created by the statute will be billed to each government and business customer according to a formula based on the number of lines of service they have in groupings of 10. For government, the fee would presumably be offset by revenue collections. For small businesses, the fee would be an additional cost of doing business or recovered in charges to customers. A completed Fiscal Estimate is included as Attachment C.

EFFECTIVE DATE

This rule shall take effect upon publication in the *Wisconsin State Journal*.

CONTACT PERSON

Questions from the media may be directed to Tim Le Monds, Director of Governmental and Public Affairs at (608) 266-9600. Small business questions may be directed to Gary Evenson, Telecommunications Division Administrator, at (608) 266-6744 or Gary.Evenson@psc.state.wi.us. Other questions regarding this matter should be directed to Docket Coordinator Dennis Klaila at (608) 267-9780 or Dennis.Klaila@psc.state.wi.us. Hearing or speech-impaired individuals may use the Commission's TTY number, if calling from Wisconsin (800) 251-8345, if calling from outside Wisconsin (608) 267-1479.

The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to

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participate in this proceeding or who needs to obtain this document in a different format should contact the docket coordinator listed above.

Dated at Madison, Wisconsin, _____

By the Commission:

Sandra J. Paske
Secretary to the Commission

SJP:JMD:kcd:g:\order/pending/1-AC-228 Emergency rule

Attachments

PLAIN LANGUAGE ANALYSIS

A. Statutory Authority and Explanation of Authority

This rule is authorized under ss. 196.02 (1) and (3), 196.025 (6) (d) 1., 227.11 and 227.24.

Section 227.11 authorizes agencies to promulgate administrative rules. Section 196.02 (1) authorizes the Commission to do all things necessary and convenient to its jurisdiction. Section 196.02 (3) grants the Commission specific authority to promulgate rules. Section 196.025 (6) (d) 1. allows the Commission to promulgate rules about the new police and fire protection fee. Section 227.24 allows agencies to draft emergency rules in certain circumstances.

Emergency rules may be promulgated if preservation of the public peace, health, safety, or welfare necessitates putting the rule into effect prior to when it would otherwise take effect. The police and fire protection fee, which must go into effect September 1, 2009,² will be used to replace shared revenue payments for such services. To ensure the health, safety, and welfare of the citizens of Wisconsin, it is vital for funding of police and fire protection services to continue unimpeded, quickly, and smoothly. Thus, it is important that the rule establishing the requirements and process for collection of this fee be implemented as soon as possible.

B. Statute Interpreted

This rule interprets s. 196.025 (6), which imposes a police and fire protection fee on communications service connections.

C. Related Statutes or Rules

Sections 77.59 (1) to (5), (5m) except any penalty or interest provision, (6) (a), (8) and (8m) describe department of revenue audit and appeal procedures.

D. Brief Summary of Rule

This rule deals with the new police and fire protection fee. It establishes the requirements for administering the fee.

The rule states that a fee must be assessed on all retail voice communications connections including voice over internet protocol, except that no fee should be assessed on lines used internally by a communications provider, by the federal government or by tribal governments. Anyone required to assess the fee must register with the department of revenue, which will be collecting the fee.

For communications connections under a subscription plan (one with regularly occurring payments scheduled), the provider is required to assess 75 cents per connection, per month. If a

² 2009 Wisconsin Act 28, s. 9441.

partial month of service is provided, then the provider is to follow the same procedure it uses with county 911 fees. If the provider does not assess those fees, then it can charge the full fee amount unless its billing system can prorate it. If a customer has more than 10 connections from a particular provider, each connection above 10 is assessed .075 cents per connection, per month. If only a partial payment is received from a customer, the payment is first applied to the provider's charges. Providers must explain the fee on the first bill on which it appears and, if it is listed separately on the bill, must identify the bill in a manner specified in the statute and in the rule.

For prepaid wireless communications connections, the provider or retailer that sells the plan must assess 38 cents per connection sold in retail sales transactions. Retail sales transactions involving prepaid wireless include the sale of a phone and airtime, as well as sales of additional airtime. Whether the source of the sale is Wisconsin is determined using a hierarchy similar to that used for sales tax purposes.

Returns must be filed with the Department of Revenue (DOR). Fees imposed during one month must be paid to DOR by the end of the following month. Extensions may be granted for good cause. Fees written off as uncollectible and those repaid when an item is returned may be deducted from a later return.

Appeals about amounts due or refunds must be filed with DOR within 60 days of the date on which a notice of amount due, notice of refund, or notice of refund claim denial is received. A request for a redetermination must be filed with DOR as well. If the communications provider or retailer wishes to pursue its appeal further, it must file an objection to the assessment with the commission, which will follow a process similar to that in s. PSC 196.85, Stats., which deals with objections to other PSC assessments.

Resellers are required to file a form with their underlying local exchange carrier certifying that the lines they have purchased will be resold. This ensures that the local exchange carrier is not held responsible for submitting fees on those lines.

Providers and retailers are required to keep records about fee assessment. DOR and the commission can audit for compliance and the commission can bring an action for uncollected fees.

E. Comparison with Existing or Proposed Federal Legislation

The Commission is not aware of any existing or proposed federal legislation on this matter.

F. Comparison with Similar Rules in Surrounding States

The Commission is not aware of any similar rules in surrounding states.

G. Data and Methodology

The Commission and the Department of Revenue (DOR) worked together to develop this rule. The current processes used by DOR for the collection of sales and other taxes were considered while developing this rule.

H. Effect on Small Business

The Commission and DOR worked together to develop this rule. The steps taken by DOR to reduce the burden of tax filings on small businesses were taken into account when drafting this rule.

I. Agency Contact Person

Questions regarding this rule should be directed to Dennis Klaila, Docket Coordinator, Telecommunications Division, at (608) 267-9780 or dennis.klaila@psc.state.wi.us. Small business questions may be directed to Gary Evenson, Telecommunications Division Administrator, at (608) 266-6744 or gary.evenson@psc.state.wi.us. Media questions should be directed to Tim Le Monds, Director of Governmental and Public Affairs at (608) 266-9600. Hearing or speech-impaired individuals may also use the Commission's TTY number; if calling from Wisconsin use (800) 251-8345, if calling from outside Wisconsin use (608) 267-1479.

J. Comments

Comments on this rule may be submitted as part of the docket for a permanent rule on this matter or at the emergency rule hearing.

K. Accommodation

The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to obtain this document in a different format should contact the docket coordinator listed above.