

RULE REVIEW

Public Service Commission

Pursuant to Section 207 of the State Administrative Procedure Act: Review of Existing Rules, notice is hereby provided of the following rules adopted in 1997 and 2002, which the Public Service Commission wishes to continue without modification. Comments are welcome on proposed continuation of the rules. Five copies of comments should be sent to: Jaclyn A. Brillong, Secretary, 3 Empire State Plaza, Albany, New York 12223-1350, within 45 days of the date of this publication. Information about the rules may be obtained from: Maureen E. Farley, Assistant Counsel, 3 Empire State Plaza, Albany, New York 12223-1350; (518) 474-1634.

1. 16 NYCRR Part 753 (Case 95-M-1007) (as modified in 2002)
 - a. Description of rule:

Protection of underground facilities. The rule implements Public Service Law §119-b and Article 36 of the General Business Law. It replaces the Department of Labor's Code Rule 53. Part 753 was modified in 2002.
 - b. Statutory authority: PSL §119-b(2) and (4), General Business Law Article 36.
 - c. No hearings or public meetings are scheduled.
 - d. The rule is in effect and will continue.
 - e. Need for and legal basis of rule:

The rule is needed to continue implementation of PSL §119-b and Article 36 of the General Business Law, both entitled, Protection of Underground Facilities. The rule provides for a notice of intention to excavate in areas with underground utility facilities. After receiving a notice of intention, utilities mark the location of their facilities on the ground surface so excavators can avoid digging in those areas, breaking lines and causing fires or other disruptions. Public safety requires continuation of the rule. The legal basis of the rule is PSL §119-b(2) and General Business Law Article 36.
2. 16 NYCRR §§90.3, 91.1, 225.3, 402.3, 510.3, 600.3 and 633.9(g) (Case 97-M-0623)
 - a. Description of rule:

The rule provides a formula for interest rates to be paid by a utility to customers on their deposits with the utility.
 - b. Statutory authority: PSL §§36(3), 117.
 - c. No hearings or public meetings are scheduled.
 - d. 16 NYCRR §600.3 is under consideration for modification. The other sections of the rule are in effect and will continue.
 - e. Need for and legal basis of rule:

The Public Service Law §§36 and 117 allow utilities to require deposits from their customers as a condition of providing service. Utilities are required to pay interest to customers on such deposits. The rule is needed because it provides a formula for current interest rates for customer deposits based on current financial indexes. Part 600.3 should remain in effect until modified by the Commission.
3. 16 NYCRR Parts 600 and 609
 - a. Description of rule:

The rule governs telephone service, including: subscriber deposits, rates and charges, discontinuance of service and complaint procedures. Parts 600 and 609 are under consideration for modification.
 - b. Statutory authority: PSL §§4(1), 92(1), 117.
 - c. No hearings or public meetings are scheduled.
 - d. Parts 600 and 609 may be modified in 2007.
 - e. Need for and legal basis of rule:

The rule is needed to provide a procedure for discontinuance of telephone service. The procedure protects the telephone customer by requiring prior notice of discontinuance by the telephone service provider. The legal basis of the rule is Public Service Law §§4(1), 92(1), and 117, which authorize the Commission to exercise general supervision of telephone companies and to allow customer deposits. The rule should continue until modified by the Commission.
4. 16 NYCRR Chapter X (Case 97-F-0809)
 - f. Description of rule:

The rule sets out regulations and procedures of the Board on Electric Generation Siting and the Environment for certification of major electric generating facilities.
 - g. Statutory authority: PSL §§161, 164(6)(b), 165(5). These statutory provisions were in effect until January 1, 2003. Prior to that date, the siting of major electric generating facilities was approved.
 - h. The rule is in effect and will continue for projects approved under Article X.
 - i. Need for and legal basis of rule:

Although the PSL Article X statute was repealed, the Chapter X rule remains necessary for projects previously approved under Article X.
5. 16 NYCRR Section 3.9(e).
 - j. Description of rule:

The rule provides that the confidentiality provisions of Section 3.9(d) apply to a neutral agent or employee of the Department of Public Service participating in a mediation proceeding. Section 3.9(d) provides that no discussion, admission, concession or offer to stipulate or settle made in any negotiation session concerning a stipulation or settlement shall be subject to discovery or admissible in an evidentiary hearing against any participant who objects to its admission. Such discussions etc., shall be kept confidential by participants and their principals.
 - k. Statutory authority: Public Service Law §§4(1) and 8.
 - l. No hearings or public meetings are scheduled.
 - m. The rule is in effect and will continue.
 - n. Need for and legal basis of rule:

The rule is necessary to protect confidentiality of mediation discussions. The legal basis of the rule is PSL §§4(1) and 8.

