

# RULE REVIEW

## PUBLIC SERVICE COMMISSION

### Notice of Continuation of Rules Without Modification

Pursuant to Section 207 of the State Administrative Procedure Act, on December 2, 2003, the Commission issued a Notice of Proposed Continuation of Rules, which was published in the Regulatory Agenda of the New York *State Register* on January 14, 2004.

The following rules should continue without modification:

1. 16 NYCRR Part 650

a. Description of rule:

The rule sets out requirements for all providers of telephone service to end users by means of currency or credit operated telephones. The rule covers: operational requirements such as calls to 911 and "O"; notice requirements of what information must appear on the payphone placard; customer service requirements; and enforcement procedures for violations of the rule.

b. Statutory authority: PSL Sections 92-c and 94(2).

c. Justification for continuation of rule:

The rule should continue without modification because it conforms Commission rules to federal law. The rule regulates areas of payphone operation that are within the Commission's jurisdiction. The rule continues to be necessary for protection of consumers who use payphones by requiring information about use, rates and where to file complaints. No comments were received on the rule.

2. 16 NYCRR Part 262

a. Description of rule:

The rule provides for drug and alcohol testing for certain operators of pipeline facilities. The rule conforms with changes to the federal Department of Transportation rules. It includes testing, recordkeeping, and reporting.

b. Justification for continuation of rule.

The rule should continue without modification because it conforms with federal requirements and is necessary to ensure safe pipeline operation in the State. No comments were received on the rule.

3. 16 NYCRR Sections 10.2(b), Parts 165-167, 310, 312, 663.1, 731-733.

a. Description of rule:

The rule repeals a number of accounting and recordkeeping requirements and adds a new section with revised requirements. The areas covered include: application and prescription of the uniform system of accounts (USOA); books and records accessibility; forms; quarterly and annual reports; and preservation of records. The rule applies to gas, electric, steam, water, and telephone utilities.

b. Statutory authority: PSL Sections 20, 66(4) and (10), 80(3) 80(8), 89-c(3), 89-c(8), 95(2), and 142.

c. Justification for continuation of rule:

The rule should continue without modification because it has eased regulatory requirements for utilities in application of the USOA. It also set up recordkeeping and record retention rules. The rule is needed for continuing regulation and to ensure that appropriate records are maintained by utilities. No comments were received on the rule.

4. 16 NYCRR Part 720

a. Description of rule:

The rule allows utilities to file tariffs with the Commission electronically. Subpart 720-6 provides for electric fuel adjustment clauses in tariffs.

b. Statutory authority: PSL Sections 66(12), 80(10), 89-c(10) and 92 (1).

c. Justification for continuation of rule:

The rule should continue without modification because it allows utilities to file their tariffs electronically, in light of updated technology. The rule also allows electric fuel adjustment clauses in electric utility tariffs for automatic adjustment of rates because of changes in the cost of fuel. The rule is needed to allow electronic filing of tariffs, which eases the tariff process for the utilities and the Commission. It is also needed to allow utilities to update tariff charges quickly when fuel prices fluctuate. No comments were received on the rule.

## OFFICE OF REAL PROPERTY SERVICES

### Five-Year Rules Review - Regulations Continued Without Modifications

Pursuant to section 207(4) of the State Administrative Procedure Act, the Office of Real Property Services gives notice of the following:

In 1999 the State Board of Real Property Services adopted substantial amendments to four Parts of its rules: 9 NYCRR 187,190, 192 and 194. These rules appeared in the State Register of January 7, 2004, as the subjects of the five-year review of existing regulations required by section 207(4). No comments were received from the public. At its meeting of June 15, 2004, the State Board of Real Property Services adopted resolutions 04-22 through 04-25 continuing these four Parts without modification.

### Part 187 - Informational Hearings, Adjudicatory Proceedings and Review Proceedings

This Part contains the procedures for the various hearings that statute requires the State Board or the Office of Real Property Services to conduct. Subpart 187-1 concerns adjudicatory proceedings pursuant to section 216 of the Real Property Tax Law (RPTL). That section authorizes the State Board to conduct hearings and issue orders where local officials whose duties relate directly to real property tax administration have failed to comply with the law. The Subpart also contains a delegation of the Board's subpoena power (§187-1.3[a][3]). Subpart 187-2 concerns the Board's authority, conferred by section 816 of the RPTL, to review complaints against counties that establish their own equalization rates. Subpart 187-3 concerns the Board's authority conferred by section 324 of the RPTL to review disciplinary proceedings against local assessors. Each of these three Subparts constitute a statement "of general applicability that implements or applies law" as defined in SAPA, § 102(2)(a), and thus must be contained in rules. Each of the Subparts predates the rules simplification initiative. Resolution 04-22 continued this Part in effect.

### Part 190 - Assessment Rolls

This Part contains a variety of provisions having to do with the preparation of assessment rolls. Section 190-1.1 contains the minimum inventory requirements, which are contained in rules as a statement "of general applicability that implements or applies law" as defined in section 102(2)(a) of SAPA. In the past the State Board has conducted hearings pursuant to section 216 to assure compliance with the inventory requirements. Resolution 04-23 continued this Part in effect.

Part 192 - State Assistance Program for Attainment of Standards for a System of Improved Real Property Tax Administration

Part 192 concerns State aid programs that have since expired. However, there has been some confusion over which requirements for local governments have State-wide applicability and which only applied to recipients of the old aid programs. This has been a particular concern with the inventory requirements. The Office of Real Property Services is reviewing these requirements. The State Board determined to continue Part 192 in effect until this review is complete by adopting resolution 04-24.

Part 194-Agricultural Assessments

This Part concerns the Agricultural Assessment program contained in Article 25-AA of the Agriculture and Markets Law (AML). In 1999 the State Board repealed many of the provisions of this Part in a rules simplification initiative as either being duplicative of the statute or as being internal procedures inappropriate for rules. Subpart 194-1 contains a series of definitions for the implementation of the program. Section 307 of that Article directs the Board to adopt such rules as it may "deem necessary to effectuate the purposes" of Article 25-AA. After the public comment period for the simplification of this Part, the Board determined that Subpart 194-1 provided guidance to assessors and farmers and thus was thus necessary to effectuate the program. The Board continues to support this decision. Subpart 194-2, concerning conversions of agricultural land to non-agricultural use, is required by sections 305(l)(d)(v) and 306(2)(b)(iii) of the AML. Given the previous determination and statutory requirements, the State Board adopted resolution 04-25 to continue this Part in effect.

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## DEPARTMENT OF TAXATION AND FINANCE

### Regulations Continued Without Modification

Pursuant to section 207.4 of the State Administrative Procedure Act, the Department of Taxation and Finance hereby gives notice of the following:

As part of the Department's 2004 review of regulations that were adopted during 1999, it has reviewed 20 NYCRR section 6-4.1 & section 21-4.1 (Conforming the Due Dates of Short Period Reports). The statutory authority for this rule is contained in Tax Law sections 171, subdivision First; 211.1; 1096(a); and 1462(a).

This regulation is being continued without modification because it continues to extend favorable treatment to taxpayers by conforming the due dates of certain general business and banking corporations' short period reports to those required for Federal income tax purposes. There have been no statutory amendments or changes in policy to warrant any modification of this regulation.

A summary of the regulation was published in the Rule Review section of the January 7, 2004, issue of the *State Register*. The 2004 Regulatory Agenda was also posted to the Department's Web site ([http://www.tax.state.ny.us/pubs\\_and\\_bulls/Regulations/Regulatory\\_Agenda.htm](http://www.tax.state.ny.us/pubs_and_bulls/Regulations/Regulatory_Agenda.htm)) on January 8, 2004. The Department did not receive any public comments regarding this regulation.

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