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Sequence Number: 05-15-19
Rule ID(s): 8909
File Date: 5/14/19
Effective Date: 8/12/19

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Tennessee Public Utility Commission
Division: Legal/Consumer Services
Contact Person: Kelly Cashman-Grams, General Counsel
Address: 502 Deaderick Street, 4th Floor, Nashville, Tennessee
Zip: 37243
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Revision Type (check all that apply):

☒ Amendment
☐ New
☐ Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1220-04-11	Telephone Solicitation Regulations - Do Not Call Register
Rule Number	Rule Title
1220-04-11-.01	Definitions
1220-04-11-.03	Maintaining the Tennessee Do Not Call Register
1220-04-11-.05	Consumer Registration with the Tennessee Do Not Call Register
1220-04-11-.06	Public Education about the Tennessee Do Not Call Register

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to http://sos-tn-gov-files.s3.amazonaws.com/forms/Rulemaking%20Guidelines_September2016.pdf.

Rule 1220-04-11-.01, Definitions, is amended by adding certain language after the semicolon to subparagraphs (12), (13), and adding the language "or a state government telephone subscriber" to (16) so that, as amended, the new subparagraphs shall read:

- (12) "Interexchange carrier" means a company that is certificated by the Commission to provide long-distance toll telephone service; provided, however, that those providers that have elected market regulation under Tenn. Code Ann. § 65-5-109(l) are excluded from the jurisdiction of the Commission consistent with Tenn. Code Ann. § 65-5-109(m) and (n).
- (13) "Local exchange companies" as used in this Chapter, include telecommunications service providers and competing telecommunications service providers as defined in T.C.A. § 65-4-101, as well as telephone cooperatives and cellular or other wireless telecommunications providers operating in Tennessee; provided, however, that those providers that have elected market regulation under Tenn. Code Ann. § 65-5-109(l) are excluded from the jurisdiction of the Commission consistent with Tenn. Code Ann. § 65-5-109(m) and (n).

* * *

- (16) "Residential Telephone Subscriber" means a person residing in Tennessee who has residential telephone service or a state government telephone subscriber.

Authority: T.C.A. §§ 4-5-201, et seq., 47-18-1501, 47-18-1526, 65-2-102, 65-4-405, and 65-5-109.

Rule 1220-04-11-.03, Maintaining the Tennessee Do Not Call Register, is amended by deleting the language "names, addresses, and" from subparagraph (1) so that, as amended, the new subparagraph shall read:

- (1) The Commission shall maintain a database of telephone numbers of all Tennessee residential telephone subscribers who have elected not to receive telephone solicitations.

Authority: T.C.A. §§ 65-2-102 and 65-4-405.

Rule 1220-04-11-.05, Consumer Registration with the Tennessee Do Not Call Register, is amended by deleting the second sentence of subparagraph (1)(b) that reads, "No Later than January 31st of each year the Commission shall publish a notice in all newspapers of general circulation in the state informing subscribers on the Register as to how to have their telephone numbers removed from the Register" and substituting instead the following language: "No Later than January 31st of each year the Commission shall publish information on its website informing subscribers on the Register as to how to have their telephone numbers removed from the Register." As a result, as amended, the new subparagraph shall read:

- (b) A residential telephone subscriber will remain on the "Do Not Call Register" until the subscriber requests that the Commission remove his or her telephone number from the Register. No later than January 31st of each year the Commission shall publish information on its website informing subscribers on the Register as to how to have their telephone numbers removed from the Register.

Authority: T.C.A. §§ 65-2-102 and 65-4-405.

Rule 1220-04-11-.06, Public Education About The Tennessee Do Not Call Register, is amended by deleting the language "and shall be developed in cooperation with the Coordination" in subparagraph (1) and deleting subparagraph (2) in its entirety, which reads, "In addition to the notification required by subsection (1), local exchange companies, working in cooperation with the Division, are required to place information in their White Page telephone directory informing their residential telephone subscribers how to be included in the Register." As a result, as amended, the section shall read:

Local exchange companies shall notify their residential subscribers twice a year on how to enroll on the Register. This notification shall accompany the subscriber's monthly telephone bill.

Authority: T.C.A. §§ 65-2-102 and 65-4-405.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Chair Robin L. Morrison	X				n/a
Vice Chair Kenneth C. Hill	X				n/a
Commissioner Herbert H. Hilliard	X				n/a
Commissioner David F. Jones	X				n/a
Commissioner John A. Hie	X				n/a

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Public Utility Commission (board/commission/ other authority) on DECEMBER 19, 2018, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 8/23/2018

Rulemaking Hearing(s) Conducted on: (add more dates). 10/15/2018

Date: 2/25/19

Signature: Kelly Cashman Grams

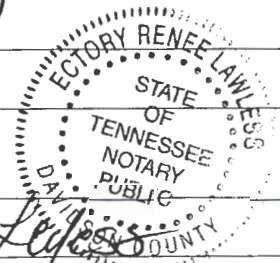
Name of Officer: Kelly Cashman Grams

Title of Officer: General Counsel

Subscribed and sworn to before me on: 2/25/19

Notary Public Signature: [Signature]

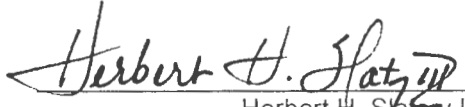
My commission expires on: 3/8/2022



Agency/Board/Commission: Tennessee Public Utility Commission

Rule Chapter Number(s): 1220-04-11-.01, .03, .05, and .06


All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.


Herbert H. Slatery III
Attorney General and Reporter
3/27/2019
Date

Department of State Use Only

Filed with the Department of State on: 5/14/19

Effective on: 8/12/19


Tre Hargett
Secretary of State

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Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

No person filed written comments in the docket file nor came forward to be heard during the rulemaking hearing. See attached Memorandum.

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

This rule does not impact small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule does not impact local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Rule 1220-04-11, *Telephone Solicitation Regulations – Do Not Call Register*, was adopted by the Commission in 2000. Since adoption of the rule, state law concerning market regulation of telecommunications providers has substantially changed the jurisdiction of the Commission and enforcement of such providers' obligations. Further, the federal database download of Do Not Call registrants has changed the availability for the Commission's database maintenance of names and addresses, as required in the existing rule. Thus, changes in law and Commission policy have prompted changes to the rule.

A summary of the changes is as follows:

- The definitions of "interexchange carrier" and "local exchange carriers" have been updated to reflect the exemption of those providers that have elected market regulation under Tenn. Code Ann. § 65-5-109(m) and (n) from the Commission's jurisdiction.
- The definition of "residential telephone subscriber" has been updated to reflect current law.
- The requirement to maintain the names and addresses connected to a telephone number in the database has been removed to be consistent with the federal Do Not Call database, which downloads to the Commission's database.
- Information informing subscribers how to remove their name from the Do Not Call register is available on the Commission website, and will not be published in newspapers of general circulation.
- As provided in Tenn. Code Ann. § 65-4-405, the obligations of local exchange carriers to educate the public concerning how to enroll on the Do Not Call Register are unchanged, but due to the change in the Commission's jurisdiction under market regulation, the requirement that such providers work in cooperation with the Commission is removed.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tenn. Code Ann. § 65-4-405(b)

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Telephone subscribers, telecommunications providers, and telephone solicitors/telemarketers are most directly affected by this rule. No comments were received from anyone either urging adoption or rejection of the changes to the rule.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

No change to state or local revenues or expenditures anticipated as a result of the changes to these rules.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Kelly Cashman-Grams, General Counsel
Lisa Cooper, Director, Consumers Services Division

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Kelly Cashman-Grams, General Counsel
Lisa Cooper, Director, Consumer Services Division

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None