

Public Service Commission

**7001 Rules Governing Notice Provided by Motor Vehicle Manufacturers Pursuant to §4915(a) of the Motor Vehicle Franchising Practices Act**

(Docket 44, Final 2 DE Reg. 1009 12/1/98)

PUBLIC SERVICE COMMISSION RULES REGARDING THE INFORMATION WHICH MUST BE FILED WITH THE COMMISSION BY THE MANUFACTURER AS PART OF ITS NOTICE OF INTENT TO RELOCATE OR ADD A MOTOR VEHICLE DEALERSHIP

**1.0 Information Required**

- 1.1 The following information must be supplied to the Public Service Commission of Delaware (the "Commission") with the manufacturer's notice of intention to establish an additional new motor vehicle dealer or to relocate an existing new motor vehicle dealer within or into a relevant market area where the same line-make is then represented.
  - 1.1.1 All information and documentation on which the manufacturer intends to rely in the event of a hearing regarding the "permanency of investment" including but not limited to:
    - 1.1.1.1 The exact location of the proposed dealership.
    - 1.1.1.2 The proposed land area requirements for all and for each usage need(s) of the proposed dealership.
    - 1.1.1.3 Information on exclusivity or nonexclusivity of line-make at the proposed dealership.
    - 1.1.1.4 A certification that the information required in 1.1.1.1 through 1.1.1.3 above meets the manufacturer's standard minimum requirements for new dealerships.
  - 1.1.2 All information and documentation on which the manufacturer intends to rely in the event of a hearing regarding the growth or decline in population and new car registrations in the relevant market area.
  - 1.1.3 All information and documentation on which the manufacturer intends to rely in the event of a hearing regarding the effect on the consuming public in the relevant market area.
  - 1.1.4 All information and documentation on which the manufacturer intends to rely in the event of a hearing regarding whether it will be injurious or beneficial to the public welfare for the proposed dealership to be established.
  - 1.1.5 All information and documentation on which the manufacturer intends to rely in the event of a hearing regarding competition and convenient customer care, including but not limited to:
    - 1.1.5.1 The demographics of the relevant marketing area or a reference to a published source that may be consulted to obtain such data.
    - 1.1.5.2 The total distance, by a generally accepted measurement technique, between the proposed dealer and existing dealers.
  - 1.1.6 All information and documentation on which the manufacturer intends to rely in the event of a hearing regarding the increase in actual competition that will be in the "public interest."
  - 1.1.7 All information on which the manufacturer intends to rely in the event of a hearing concerning the effect on the relocating dealer of denial of its relocation.
- 1.2 Within ten (10) days following the filing of a protest pursuant to 6 Del.C. §4915(a), the manufacturer must submit a letter of intent signed by the manufacturer and proposed dealer.

**2.0 Procedures**

- 2.1 The Commission Staff shall review all filings to insure compliance with the minimum filing requirements and shall notify the manufacturer within ten (10) days after the date of filing of any defects in compliance. After notification of non-compliance, the manufacturer shall have twenty (20) days to

- correct the defects. The time period for filing the protest under 29 **Del.C.** §4915(a) shall begin to run from the date of the filing of the notice of intent in full compliance with the filing requirements.
- 2.2 An existing dealer or party with an interest in the siting of the proposed dealership in the relevant market area may request additional information and documentation directly from the manufacturer and the parties may communicate and negotiate directly without Commission intervention. If the existing dealer or party with an interest in the relevant market area of a proposed dealership is still not satisfied with the response to its request, it may request that the Commission, pursuant to its authority in the docket for siting the proposed dealership, require the submission of the data and/or information, if the Commission concludes it is appropriate and relevant to the ripeness of the manufacturer's intent.
- 2.3 The Commission or Hearing Examiner may, in its discretion, permit the manufacturer to submit evidence at the hearing that was not submitted with the notice of intent:
- 2.3.1 if submission of the information and/or documentation is not required by this rule;
  - 2.3.2 if there is good cause shown;
  - 2.3.3 if the submission of the information will not cause unfair prejudice; or
  - 2.3.4 if the consideration of the information is in the interest of justice and the efficient administration of the hearing.

**Attachment B - Hearing Examiner's recommended rule.**

**RULE GOVERNING NOTICE PROVIDED BY MOTOR VEHICLE MANUFACTURERS PURSUANT TO SECTION 4915(a) OF THE MOTOR VEHICLE FRANCHISING PRACTICES ACT**

Motor vehicle manufacturers notifying the Public Service Commission and affected new motor vehicle dealers of their intent to establish an additional new motor vehicle dealership or to relocate an existing new motor vehicle dealership pursuant to 6 **Del.C.** § 4915(a) shall use the following form of notice:

**NOTICE OF THE ESTABLISHMENT OF AN ADDITIONAL NEW MOTOR VEHICLE DEALERSHIP OR THE RELOCATION OF AN EXISTING NEW MOTOR VEHICLE DEALERSHIP**

TO: [Insert name and address of new motor vehicle dealer selling new motor vehicles in the same line-make in the "relevant market area" as defined by 6 **Del.C.** § 4902(10).]

You are hereby notified that [insert name of manufacturer] intends to establish a [insert line-make of vehicle] dealership at [specify the street address, or if none exists, the geographic boundaries of the proposed new dealership] on or after [insert earliest date on which manufacturer intends to establish the additional or relocated dealership].

The manufacturer is required to provide this notice to you and to the Public Service Commission pursuant to 6 **Del.C.** § 4915.

_____[signature]_____ On behalf of [insert name of manufacturer]	_____[signature]_____ On behalf of [insert name of proposed dealership]
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