

PROPOSED RULEMAKINGS

BOARD OF COAL MINE SAFETY

[25 PA. CODE CH. 208]

Maintenance of Incombustible Content of Rock Dust

The Board of Coal Mine Safety (Board) is proposing to add § 208.71 (relating to maintenance of incombustible content of rock dust) to read as set forth in Annex A. The proposed rulemaking conforms Pennsylvania regulations to Federal regulations, thereby establishing that the incombustible content of coal dust, rock dust and other dust will not be less than 80% in bituminous coal mines.

Sections 106 and 106.1 of the Bituminous Coal Mine Safety Act (BCMSA) (52 P. S. §§ 690-106 and 690-106.1) authorize the adoption of regulations implementing the BCMSA, including additional safety standards. The Board is authorized to promulgate regulations that are necessary or appropriate to implement the BCMSA and to protect the health, safety and welfare of miners and other individuals in and about mines.

This proposed rulemaking is given under Board order at its meeting of March 26, 2013.

A. *Effective Date*

This proposed rulemaking will be effective upon final-publication in the *Pennsylvania Bulletin*.

B. *Contact Persons*

For further information, contact Joe Scaffoni, Director, Bureau of Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401, (724) 439-7469, jscaffoni@pa.gov; or Susana Cortina de Cáenas, Assistant Counsel, Bureau of Regulatory Counsel, Office of Chief Counsel, Rachel Carson State Office Building, 9th Floor, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060, scortina@pa.gov.

C. *Statutory Authority*

The proposed rulemaking is authorized under sections 106 and 106.1 of the BCMSA, which grant the Board the authority to adopt regulations implementing the BCMSA, including additional safety standards. The Board is authorized to promulgate regulations that are necessary or appropriate to implement the BCMSA and to protect the health, safety and welfare of miners and other individuals in and about mines.

D. *Background and Purpose*

This proposed rulemaking would require that where rock dust is to be applied in bituminous coal mines, the incombustible content of the combined coal dust, rock dust and other dust that is present in a mine's intake and return airways may be not be less than 80%. On September 23, 2010, the Mine Safety and Health Administration (MSHA) issued an emergency temporary standard (ETS) under section 101(b) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C.A. § 811(b)) in response to the grave danger that miners in underground bituminous coal mines face when accumulations of coal dust are not made inert. See 75 FR 57849 (September 23, 2010). MSHA concluded, from investigations of mine explosions and other reports, that immediate action was necessary to protect miners.

The ETS served as an emergency temporary final rule with immediate effect and provided an opportunity for notice and comment, after which time a final rule would be issued. The National Institute for Occupational Safety and Health (NIOSH) conducted a series of large-scale dust explosion tests at the NIOSH Lake Lynn Experimental Mine using the dust survey results to determine the incombustible content necessary to prevent explosion propagation. Based on the results of this testing, NIOSH recommended an 80% total incombustible content in both intake and return airways of bituminous coal mines in the ETS. In addition, the incombustible content of the dust shall be increased to 0.4% for each 0.1% of methane present.

Based on NIOSH's data and recommendations and MSHA data and experience, the United States Secretary of Labor determined that miners were exposed to grave danger in areas of underground bituminous coal mines that were not properly and sufficiently rock dusted in accordance with the ETS and that the ETS was necessary to protect miners from this danger.

The final MSHA rule retained the verbatim requirements of the ETS to ensure continuous protection for underground bituminous coal miners from grave danger due to hazards of coal dust explosions. See 76 FR 35968 (June 21, 2011).

In developing the final rule, MSHA considered the following: its accident investigation reports of mine explosions in intake air courses that involved coal dust; the NIOSH Report of Investigations entitled "Recommendations for a New Rock Dusting Standard to Prevent Coal Dust Explosions in Intake Airways"; MSHA's experience and data; public comments on the ETS; and testimony provided at the public hearings. MSHA believes that the requirements of the final rule are necessary to continue to protect underground bituminous coal miners from grave danger. These regulations are codified at 30 CFR 75.403 and 75.403-1 (relating to maintenance of incombustible content of rock dust; and incombustible content).

The BCMSA is the first significant update of the Commonwealth's underground bituminous coal mine safety laws since 1961. See section 103(a) of the BCMSA (52 P. S. § 690-103(a)). One of the significant changes made by the BCMSA is the authority to promulgate regulations for mine safety. The General Assembly established the Board to promulgate the regulations. This seven-member board consists of the Department of Environmental Protection's (Department) Secretary as Chairperson, three members representing the viewpoint of mine workers and three members representing the viewpoint of underground bituminous coal mine operators, respectively. See section 106 of the BCMSA.

A significant problem with the pre-existing law was that its safety standards were becoming outdated. There was not an effective mechanism to modify existing standards or to adopt new safety standards to address changes in technology or other hazards. To rectify this problem, the BCMSA contains broad rulemaking authority to adopt regulations to either modernize safety standards in the BCMSA or adopt new safety standards not in the BCMSA. The Board was directed to start considering whether to adopt Federal mine safety standards not in the BCMSA. See section 106.1 of the BCMSA.

After learning of the more stringent MSHA requirements under 30 CFR 75.403 and 75.403-1 for the mainte-

nance of incombustible content of rock dust, the Board determined that the Commonwealth should incorporate the Federal standards into State regulation and provide the Department the necessary independent authority to enforce those standards.

The percentage of incombustible content of rock dust plays an important role in the probability and severity of explosions in bituminous coal mines. Rock dust has been used for 100 years as a precautionary measure to prevent explosions. The workings of these mines lead to the production of explosive coal dust and adding rock dust with an incombustible content of a certain percentage reduces the potential, as well as the severity, of explosions. This has been amply documented by the previously-referenced studies. Inert rock dust acts as a heat sink, that is, a source that absorbs and dissipates heat, so that a certain amount of inert rock dust with coal dust is likely to prevent or reduce the potential for coal dust explosions. For that reason, Federal regulations mandate that the incombustible content of the combined coal, rock and other types of dust used in bituminous coal mines may not be less than 80%. The proposed rulemaking conforms to the Federal regulation in this regard.

By proposing to adopt this Federal regulation, the Board believes it will enhance the Department's ability to ensure the safety of miners by reducing the potential or severity of explosions in bituminous coal mines and by allowing the Department to have independent authority to enforce the Federal requirement. This proposed rulemaking seeks to conform Pennsylvania regulations to Federal regulations that are already in place.

E. Summary of Proposed Rulemaking

The Board proposes to add § 208.71 to require the use of additional rock dust to reduce the possibility and severity of explosions that may cause bodily harm or loss of life while working underground, as well as prevent property loss. Most of the miners who work underground may be several miles away from a mine opening. Because of the dangerous conditions that miners encounter and the increased probability of explosions with the use of rock dust with incombustible content that is less than 80%, safety is a priority. Using additional rock dust to attain the percentage previously mentioned is another tool that miners will have available to save a life, as well as protect property.

Subsection (a) provides that, among other things, the incombustible content of the combined coal dust, rock dust and other dust may not be less than 80%.

Subsection (b) provides that where methane is present, the percent of incombustible content of combined dust shall be increased 0.4% for each 0.1% of methane.

Subsection (c) provides that moisture in the combined coal dust, rock dust and other dusts shall be considered a part of the incombustible content of the mixture.

F. Benefits and Costs

Benefits

The proposed rulemaking will reduce the possibility and severity of explosions that may cause bodily harm, loss of life or property. The proposed rulemaking incorporates Federal regulations into the Commonwealth's regulations, thus enhancing the Commonwealth's mine safety program and its reputation for excellence.

Compliance Costs

The proposed rulemaking will not add compliance costs to those already existing, as a Federal regulation is

already in place in this regard. This proposed rulemaking imposes standards already imposed by MSHA.

Compliance Assistance Plan

The Department plans to educate and assist the public and regulated community in understanding the proposed rulemaking and how to comply with it. This will be accomplished through the Department's ongoing compliance assistance program.

Paperwork Requirements

The proposed rulemaking will not increase the paperwork that is already generated because of the existing Federal regulation that is already in place.

G. Sunset Review

This regulation will be reviewed in accordance with the sunset review schedule published by the Department to determine whether it effectively fulfills the goals for which it was intended.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May, 1, 2013, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

I. Public Comments

Written comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Board of Coal Mine Safety, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board on or before June 10, 2013. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by the Board on or before June 10, 2013. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final-form rulemaking will be considered.

Electronic comments—Comments may be submitted electronically to the Board at RegComments@pa.gov and must also be received by the Board on or before June 10, 2013. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

E. CHRISTOPHER ABRUZZO,
Acting Chairperson

Fiscal Note: 7-481. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE IV. OCCUPATIONAL HEALTH AND SAFETY

CHAPTER 208. UNDERGROUND COAL MINE SAFETY

COMBUSTIBLE MATERIALS AND ROCK DUSTING

§ 208.71. Maintenance of incombustible content of rock dust.

(a) Where rock dust is required to be applied, it shall be distributed upon the top, floor and sides of the underground areas of a coal mine and maintained in quantities so that the incombustible content of the combined coal dust, rock dust and other dust is not less than 80%.

(b) Where methane is present in a ventilating current, the percent of incombustible content of the combined dust as required under subsection (a) shall be increased 0.4% for each 0.1% of methane.

(c) Moisture in the combined coal dust, rock dust and other dusts shall be considered as a part of the incombustible content of the mixture.

[Pa.B. Doc. No. 13-867. Filed for public inspection May 10, 2013, 9:00 a.m.]

BOARD OF PROBATION AND PAROLE

[37 PA. CODE CH. 79]

County Probation and Parole Officers' Firearm Education and Training Commission

The County Probation and Parole Officers' Firearm Education and Training Commission (FETC) proposes to amend §§ 79.2, 79.61 and 79.63 (relating to definitions; approval of instructors; and requirements for in-service training courses) and add §§ 79.25 and 79.26 (relating to duty weapon change; and break-in-service) to read as set forth in Annex A.

Statutory Authority

This rulemaking is proposed under the authority of 61 Pa.C.S. § 6305(13) (relating to powers and duties of commission).

Purpose of Proposed Rulemaking

This proposed rulemaking will serve to accelerate the firearm qualification process for officers and the approval process for in-service training courses. This proposed rulemaking will also maintain public safety by ensuring that officers are properly qualified on their duty weapons and instructors are properly certified to conduct training courses. Proposed amendments to § 79.2 define new terms. Proposed § 79.25 explains the qualification requirements that county probation and parole officers shall

adhere to in the event of a duty weapon change. Proposed § 79.26 explains the requisite qualification requirements that county probation and parole officers shall adhere to depending on the duration of the officer's break-in-service. Proposed amendments to § 79.61 amend the recertification and renewal requirements for Certified Firearms Instructors (CFI) who attain Master Instructor (MI) status. Proposed amendments to § 79.63 grant the FETC the discretion to waive certain requirements in the approval process for in-service training courses.

Explanation of Proposed Rulemaking

In § 79.2(a), definitions of "break-in-service" and "duty weapon" are proposed to be added.

Proposed § 79.25 provides new requirements when a county probation or parole officer has a change involving his duty weapon. A different manufacturer, a different model from the same manufacturer or a change in firearm caliber constitutes a duty weapon change. A change in duty weapon requires a county probation or parole officer to satisfactorily complete an FETC qualification course of fire before carrying the new weapon on duty. This proposed section also requires that the weapon change information and the qualification results are recorded in the Firearm Commission Training Management System (FCTMS).

The FETC does not currently require an officer to pass a qualification course of fire on a new duty weapon. Instead, an officer is required to pass a qualification course of fire only when the officer's qualification certification expires.

Proposed § 79.26 provides that when an officer has a break-in-service of less than 12 months, that officer does not have to undergo additional training as a result of the break-in-service. However, an officer who has a break-in-service lasting between 12 and 24 months shall satisfactorily complete a current written test, requalify on the Commission's qualification course and resubmit fingerprints. An officer who has a break-in-service lasting 24 months or more shall meet the requirements of a new hire.

Proposed amendments to § 79.61(b) provide that when a CFI attains MI status, the MI recertification date will default to the instructor's CFI recertification date. Currently, this subsection determines the MI recertification date by calculating a 36-month period from the date MI status is attained. Instead of relying on calculations, this proposed amendment would simply apply the existing CFI recertification date as the MI recertification date.

This proposed rulemaking also amends the requirements for CFI certification renewal. Section 79.61(c)(1) currently requires documentation demonstrating that the instructor provided at least 12 hours of relevant academic and range instruction to county probation personnel in the last 36 months. This proposed amendment would only require that the instructor provided at least 12 hours of firearm instruction to county probation personnel in the last 36 months.

Proposed amendments to § 79.63(b) would grant the FETC discretion to waive the 90-day requirement in this subsection if the course has been approved by an entity such as the Federal Bureau of Investigation, the Pennsylvania State Police or the National Rifle Association. This

section requires counties, seeking approval for in-service training courses, to submit an application to the Executive Director at least 90 calendar days before the first proposed day of training.

Affected Parties

This proposed rulemaking would add only a slight burden on county probation and parole officers depending on whether there has been a change in duty weapon or a break-in-service. An officer would have to adhere to these new requirements even if the officer would not otherwise be up for requalification.

Additionally, an FETC-approved school or vendor that provides in-service training courses may experience a slight increase in the number of officers it tests depending on whether the officer has had a duty weapon change or a break-in-service. Additionally, firearm instructors may derive a benefit from the proposed recertification regulation since it simplifies the recertification dates for instructors reaching MI status.

Fiscal Impact

Commonwealth

The Commission determined that the proposed rulemaking will have a minimal financial impact on the Commonwealth since the funds budgeted for the FETC are derived from the County Probation and Parole Officers' Firearm Education and Training Fund (Fund), which, under the law, is a restricted receipts account within the General Fund. Moneys for the Fund are derived from costs imposed on individuals who accept Accelerated Rehabilitative Disposition, plead guilty or nolo contendere, or are convicted of a felony or misdemeanor. The Fund is used exclusively for the training activities and expenses of the FETC.

Political subdivisions

The projected fiscal impact of this proposed rulemaking is negligible. The costs associated with firearm qualification courses will only apply when the officer has a change in duty weapon or a break-in-service.

Overview of costs

The time an officer spends requalifying usually takes 1 hour. The subject county would have to pay that percentage of the officer's salary, plus the hourly percentage of the instructor's salary, plus the 60-180 rounds (50¢ per round) expended, plus 2 to 6 targets used (\$1 per target). When a written test is required, the county shall pay the officer and the testing instructor a percentage of his salary based on the 50-minute test. Finally, when an officer must meet the requirements of a new hire because of break-in-service lasting 24 or more months, the county shall pay for 18 hours of classroom time, 31 hours of range time, 1,000 rounds of ammunition, the cost for hotel rooms (maximum \$79 per night) and a per diem and mileage.

Private sector

The proposed rulemaking will not have adverse fiscal impact on the private sector.

General public

The proposed rulemaking will not impose costs and will not have adverse fiscal impact on the general public.

Costs and Paperwork Requirements

The proposed rulemaking directly relates to implementation of a program which is already in effect and for which funding is already in place. Therefore, there will not be new fiscal impact. The proposed rulemaking may result in marginal increases in paperwork since weapon

change information and qualification results must be recorded in the FCTMS. There may be a slight reduction in paperwork for certified firearm instructors since they would only have to document and demonstrate 12 hours of firearms training, rather than 12 hours of academic and range instruction when renewing CFI certification.

Impact on Small Business

This proposed rulemaking will not have impact on small businesses as the regulations only affect county probation and parole officers and county probation departments.

Effective Date

This proposed rulemaking will become effective upon final-form publication in the *Pennsylvania Bulletin*.

Sunset Date

A sunset date has not been assigned. The FETC will review the efficacy of these regulations on an ongoing basis.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Todd Burns, Executive Director, Firearm Education and Training Commission, 1101 South Front Street, Suite 5600, Harrisburg, PA 17104-2522 within 30 calendar days after the date of publication in the *Pennsylvania Bulletin*. When submitting comments, reference Regulation No. 37 Pa. Code, Chapter 79. Persons with a disability who require an auxiliary aid or service may submit comments by calling Todd Burns, (717) 783-4692.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 30, 2013, the FETC submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Judiciary Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the FETC, the General Assembly and the Governor of comments, recommendations or objections raised.

KEITH GRAYBILL,
Chairperson

Fiscal Note: 41-21. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 37. LAW

PART II. BOARD OF PROBATION AND PAROLE CHAPTER 79. COUNTY PROBATION AND PAROLE OFFICERS' FIREARM EDUCATION AND TRAINING COMMISSION GENERAL PROVISIONS

§ 79.2. Definitions.

(a) The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Basic training—The initial training provided by the Commission.

Break-in-service—The time period between the date an officer qualified to carry a duty weapon terminates employment for any reason and the date that the officer is rehired by the same or another armed county probation and parole office.

CFI—Certified Firearms Instructor—A firearms instructor who is approved by the Commission under § 79.61(a)(1) (relating to approval of instructors.)

* * * * *

County conducted training—Any Commission-approved training not presented by the Commission but presented by a county.

Duty weapon—The firearm an officer qualifies with and carries while on duty.

Executive Director—The administrative officer reporting directly to the Commission who is responsible for program management.

* * * * *

MAINTENANCE OF CERTIFICATION

(Editor’s Note: Sections 79.25 and 79.26 are new and printed in regular type to enhance readability.)

§ 79.25. Duty weapon change.

A change in an officer’s duty weapon involving a different manufacturer, a different model from the same manufacturer or a change in firearm caliber requires that:

- (1) The officer satisfactorily completes a Commission qualification course of fire on the new duty weapon.
- (2) Qualification occurs prior to the officer carrying the new weapon on duty.
- (3) Weapon change information and qualification results are recorded in the FCTMS.

§ 79.26. Break-in-service.

- (a) An officer who has a break-in-service of less than 12 months is not required to have additional training as a result of the officer’s break-in-service.
- (b) An officer who has a break-in-service lasting between 12 and 24 months shall satisfactorily complete a current written test and successfully requalify on the Commission’s qualification course as a result of the officer’s break-in-service.
- (c) An officer who has a break-in-service of 24 months or more shall meet the requirements of a new hire as a result of the officer’s break-in-service.

APPROVAL OF INSTRUCTORS, SCHOOLS AND VENDORS

§ 79.61. Approval of instructors.

* * * * *

(b) Certifications for both CFI and MI shall be for [a period of] 36 months following approval by the Commission unless sooner revoked by the Commission. When a CFI attains MI status, [the 36-month period shall be calculated based upon the date that MI status is attained] the MI recertification date will default to the instructor’s CFI recertification date.

(c) To renew certification an instructor shall be required to submit an application for renewal of certifica-

tion. The application must at least include documentation demonstrating that the instructor has provided the following:

- (1) For CFI certification renewal, a minimum of 12 hours of relevant [academic and range] firearms instruction to county probation personnel in the preceding 36 months, including at least one basic training. The requirement to conduct one basic training during the preceding 36-month period for CFI renewal may be waived by the Commission.

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§ 79.63. Requirements for in-service training courses.

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(b) Counties seeking approval of an in-service training course developed by an entity other than the Commission or a Commission-approved school or vendor shall submit an application to the Executive Director at least 90 calendar days prior to the first proposed day of training. The proposal [must] shall be submitted in writing to the Executive Director. The Commission may waive the 90-day requirement in this subsection on a case-by-case basis if the course has been approved by an entity such as the Federal Bureau of Investigation, the Pennsylvania State Police or the National Rifle Association.

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[Pa.B. Doc. No. 13-868. Filed for public inspection May 10, 2013, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

[25 PA. CODE CH. 1021]
Practice and Procedure

The Environmental Hearing Board (Board) proposes to amend Chapter 1021 (relating to practice and procedure) by adding procedural rules to read as set forth in Annex A. The proposed procedural rules have the following objectives: 1) to provide the regulated community, the Department of Environmental Protection (Department) and other potential litigants with more specific guidance on how to represent their interests before the Board; 2) to improve the rules of practice and procedure before the Board; and 3) to institute additional and modified rules of practice and procedure before the Board to require electronic filing and service in nearly all matters before the Board.

This proposed rulemaking was adopted by the Board at its meeting on November 8, 2012.

A. Effective Date

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

B. Contact Persons

For further information, contact Maryanne Wesdock, Senior Counsel, Environmental Hearing Board, Suite 310, 301 Fifth Avenue, Pittsburgh, PA 15222, (412) 565-5245, mwesdock@pa.gov.

C. Statutory Authority

The Board has the authority under section 5 of the Environmental Hearing Board Act (act) (35 P. S. § 7515) to adopt regulations pertaining to practice and procedure before the Board.

D. Background and Purpose

The proposed rulemaking improves practice and procedure before the Board. The proposed rulemaking is based on the recommendations of the Environmental Hearing Board Rules Committee (Rules Committee), a nine-member advisory committee created by section 5 of the act to make recommendations to the Board on its rules of practice and procedure. The Board may promulgate proposed regulations based in whole or in part on the recommendations of the Rules Committee.

The Board established an electronic filing system allowing parties appearing before the Board to file nearly any document in a proceeding on an electronic docket. This system, after being utilized on a case-by-case basis, is now being proposed as the primary docketing system for the Board. In addition to some omnibus rule amendments, the proposed amendments will allow the Board to require nearly all parties to file nearly all documents in matters before the Board electronically in a manner that will allow the Board's proceedings to be more efficient, open to the public and accessible to parties appearing before the Board.

E. Summary of Proposed Rulemaking

This summary provides a description of the existing rules of practice and procedure when relevant to proposed revisions, the proposed amendments and how the proposed amendments differ from the Rules Committee's recommendations.

The Board concurred with the Rules Committee's recommendations.

When the recommendations of the Rules Committee were not in proper legislative style and format, they have been modified to conform to those requirements. Similarly, when recommendations did not contain proper cross references to 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), references to those rules have been added.

The proposed rulemaking can be divided into three categories: 1) adoption of new rules; 2) substantive amendments to existing rules; and 3) correction of typographical errors.

§ 1021.2. Definitions

The definition of "Costs Act" is proposed to be deleted because the statute is no longer in effect and the references to it are proposed to be deleted. The other proposed amendments to this section are necessary to support the adoption of a comprehensive set of rules to adopt mandatory participation in the Board's electronic filing system in most appeals.

§ 1021.31. Signing

Proposed amendments to this section clarify that every document filed by a party is covered by the Board's rule on signing and delete any possible distinction that paper documents are to be treated differently.

§ 1021.32. Filing

Proposed amendments to this section are the result of the Board's adoption of a comprehensive electronic filing system. The obligations of parties practicing before the Board are proposed to be amended to move Board prac-

tice to near-universal electronic filing participation. Therefore, the proposed amendments provide for electronic filing by parties regardless of whether they are licensed attorneys, describe when a party may be able to file by conventional means (in paper) or by facsimile and revise procedures for filing conducted through the Board's electronic filing web site.

§ 1021.32a. Privacy issues

This proposed section creates an obligation for filing parties to redact or refrain from including certain personal or private information in filings before the Board under most circumstances.

§ 1021.33. Service by the Board

Proposed amendments to this section change the Board's internal procedure to reflect the comprehensive electronic filing system and decrease duplicated efforts.

§ 1021.34. Service by a party

Proposed amendments to this section change the obligations of parties serving documents in a matter before the Board to reflect the comprehensive electronic filing system.

§ 1021.35. Date of service

Proposed amendments to this section change the calculation of effective dates of service for conventionally and electronically filed documents.

§ 1021.36. Certificate of service

Proposed amendments to this section change the requirement to file a certificate of service to coordinate with the Board's comprehensive electronic filing system.

§ 1021.36a. E-mail addresses

This proposed section requires users of the Board's electronic filing system to keep and maintain an up-to-date e-mail address with the Board's electronic filing provider.

§ 1021.37. Number of copies

Proposed amendments to this section delete the obligation of parties to submit duplicate copies of documents filed with the Board under most circumstances.

§ 1021.39. Docket

Proposed amendments to this section more clearly explain the Board's electronic filing system and the docket that is maintained on it by the Board's electronic filing provider.

§ 1021.51. Commencement, form and content

Proposed amendments to this section change the Board's rules for beginning a matter before the Board by providing for electronic filing of notices of appeal through the Board's electronic filing system and other amendments.

§ 1021.94. Dispositive motions other than summary judgment motions

Proposed amendments to this section place the same obligation on parties against whom a dispositive motion is filed as is currently stated in § 1021.94a (relating to summary judgment motions).

Proposed amendments also change the rules for parties seeking to express support of another party's dispositive motion. Two options were proposed for the second amendment. One option, which is in Annex A, would prohibit responses in support of a dispositive motion from containing legal and factual bases not in the original motion. The

alternative option would be to allow responses in support of a dispositive motion to include legal and factual bases not in the original motion, but would provide a different time period for the filing of responses to allow the opposing party ample time to address both the dispositive motion and the response in support of the dispositive motion.

§ 1021.94a. *Summary judgment motions*

Proposed amendments to this section change the Board's summary judgment rule as it applies to parties seeking to express support of another party's motion for summary judgment.

§ 1021.103. *Subpoenas*

Proposed amendments to this section incorporate additional Pennsylvania Rules of Civil Procedure into the Board's rules for subpoenas.

§ 1021.122. *Burden of proceeding and burden of proof*

Proposed amendments to this section make a minor change to clarify the burden of proof in third-party appeals.

§§ 1021.171—1021.174

These sections are proposed to be rescinded to reflect the fact that a party is not eligible to recover its costs through the Costs Act because the statute was repealed.

§ 1021.181. *Scope*

Proposed amendments to this section delete references to the Costs Act.

§ 1021.201. *Composition of the certified record on appeal to Commonwealth Court*

Proposed amendments to this section clarify that the Board will include a printed copy of electronically filed documents in records certified for the Commonwealth Court.

F. *Benefits, Costs, Compliance and Paperwork*

Benefits

Mandatory electronic filing for most parties before the Board will provide a measurable benefit to the Commonwealth, the public and parties appearing before the Board. By moving nearly all aspects of Board practice to the electronic filing program, the Board will experience a reduction in the administrative burden posed by service by mail, paper recordkeeping and consumption of paper and other supplies. Parties appearing before the Board will have greater access to docket materials and a reduction in the administrative burden posed by service by mail. Members of the public will benefit from more extensive public access to the Board's open dockets allowing anyone with Internet access to view nearly all documents filed during the course of the Board's appeal process.

Costs

The proposed electronic filing amendments will have a favorable economic impact on the Commonwealth and private parties in that it will greatly reduce the amount of paper used by the Board, other Commonwealth agencies appearing before the Board and the private bar filing documents with the Board. The remaining proposed amendments will either not have measurable fiscal impact on the Commonwealth, political subdivision or the private sector or may have a favorable economic impact in that they may eliminate potential litigation over existing uncertainties in Board procedures, authority and requirements. Further, the expansion of the Board's electronic

filing system may relieve some burdens on the Commonwealth under the Right-to-Know Law (65 P. S. §§ 67.101—67.3104) when information in the Board's dockets is directly accessible to the public.

Compliance

The proposed rulemaking will have a minimal impact on compliance costs for parties participating in matters before the Board. Under most circumstances, the ability to conduct nearly all aspects of appeal procedure electronically through the Board's electronic filing system will result in a reduction of the administrative burden for parties who will no longer have to provide the Board with paper records or conduct service by mail. Parties who face an undue burden by the proposed rulemaking will be able to seek relief from the Board from the electronic filing requirements.

Paperwork

The proposed rulemaking may require only minor changes to the Board's standard orders.

H. *Sunset Review*

These regulations will be reviewed in accordance with the sunset review schedule published by the Board to determine whether the regulations effectively fulfill the goals for which they were intended.

I. *Public Meeting on Proposed Rulemaking*

In accordance with 65 Pa.C.S. § 704 (relating to open meetings), a quorum of the members of the Board voted to adopt the proposed rulemaking at a public meeting held on November 8, 2012, at the Board's Harrisburg office in Hearing Room 2, Second Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

J. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 26, 2013, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

K. *Public Comment*

The Board invites interested persons to submit written comments, suggestions or objections regarding the proposed rulemaking to Maryanne Wesdock, Senior Counsel, Environmental Hearing Board, 2nd Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, mwesdock@pa.gov within 30 days of the date of publication in the *Pennsylvania Bulletin*.

THOMAS W. RENWAND,
Chairperson

Fiscal Note: 106-10. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART IX. ENVIRONMENTAL HEARING BOARD

CHAPTER 1021. PRACTICE AND [PROCEDURES]
PROCEDURE

PRELIMINARY PROVISIONS

GENERAL

§ 1021.2. Definitions.

(a) The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Board—The Environmental Hearing Board, consisting of its chairperson and four members, all of whom are administrative law judges appointed by the Governor to hear appeals from actions of the Department.

Business day—A day that is not a Saturday, Sunday or a legal holiday.

[*Costs Act*—The act of December 13, 1982 (P. L. 1127, No. 257) (71 P. S. §§ 2031—2035), known as the Commonwealth Agency Adjudicatory Expenses Award.]

Conventional filing—Presenting documents to the Board by hand, mail or other personal delivery services, for purposes of filing.

Department—The Department of Environmental Protection or other boards, commissions or agencies whose decisions are appealable to the Board.

* * * * *

Electronic filing—[The electronic transmission of legal documents by means of a computer or device, other than by facsimile transmission. Legal documents may be electronically transmitted in the format of Word Perfect for Windows or Microsoft Word for Windows or other format as the Board may permit.] The electronic transmission of documents to the Board through the electronic filing provider for purposes of filing.

Electronic filing provider—The entity providing electronic filing and electronic service of documents by means of the Internet in Board proceedings.

Electronic service—The electronic transmission of documents through the electronic filing provider to a party, attorney or representative under this chapter.

Facsimile filing—The transmission of documents to the Board, for purposes of filing, using a machine that can send and receive a facsimile transmission either as a stand-alone device or as part of a computer system.

Facsimile transmission—The transmission of a source document between locations by encoding the document into electronic signals, transmitting the signals over the telephone system and reconstructing the electronic signals to print a duplicate of document at the receiving destination.

[*Filing attorney*—A registered attorney who files a legal document by means of electronic filing on

behalf of a client whom the attorney represents in a proceeding before the Board.]

Hearing examiner—A person other than a Board member designated by the Board to preside at hearings or conferences.

Intervenor—A person who has been permitted to intervene by the Board, as provided by § 1021.81 (relating to intervention).

[*Legal document*—A motion, answer or other paper filed in a proceeding before the Board other than a notice of appeal or a complaint that is original process naming a defendant or defendants. A subpoena or a bond or check issued to secure payment of a penalty is not a legal document; the original of the documents excluded from this definition must be filed or served.]

Legal holiday—A day designated as a holiday by the President or Congress of the United States or the Commonwealth.

Pa.R.A.P.—Pennsylvania Rules of Appellate Procedure, 42 Pa.C.S.; 210 Pa. Code.

* * * * *

Pleading—A complaint filed under § 1021.71, § 1021.72 or § 1021.73 (relating to complaints filed by the Department; complaints filed by other persons; and transferred matters) or answer filed under § 1021.74 (relating to answers to complaints). Documents filed in appeals, including the notice of appeal, are not pleadings.

[*Registered attorney*—An attorney admitted to practice in this Commonwealth, or other counsel permitted by Board order to represent a party for purposes of a particular proceeding, who has filed an electronic filing registration statement with the Board and to whom the Board has issued a password authorizing filing and service through the Board’s website.]

Registration statement—[A statement made on professional or organizational letterhead requesting the use of the Board’s website for electronic filing.] A completed application to use the electronic filing provider for electronic filing and electronic service in Board proceedings.

Registered user—An individual who has submitted a registration statement to the Board and to whom the Board has issued a password authorizing electronic filing and electronic service.

Supersedeas—A suspension of the effect of an action of the Department pending proceedings before the Board.

* * * * *

DOCUMENTARY FILINGS

FILING AND SERVICE OF DOCUMENTS

§ 1021.31. Signing.

(a) Every [notice of appeal, motion, legal document or other paper] document directed to the Board and every discovery request or response of a party represented by an attorney shall be signed by at least one attorney of record in the attorney’s individual name, or if a party is not represented by an attorney, shall be signed by the party. Each [paper shall] document must state the signer’s mailing address, e-mail address and telephone number.

* * * * *

§ 1021.32. Filing.

[(a) Documents filed with the Board shall be filed at its headquarters—2nd Floor, Rachel Carson State Office Building, 400 Market Street, Post Office Box 8457, Harrisburg, Pennsylvania 17105-8457.

(b) The date of filing shall be the date the document is received by the Board.

(c) Documents may be filed by personal delivery, by mail or by facsimile. Legal documents, as defined in § 1021.2 (related to definitions), may be filed electronically in accordance with this chapter. When a document is filed by facsimile, the original shall be deposited in the mail on the same day. If a document exceeds ten pages, the facsimile shall consist of the first five pages and last five pages of the document and the certificate of service.

(d) Legal documents may be filed with the Board electronically through the Board's website by a filing attorney unless provided otherwise by Board order. A legal document filed electronically shall be deemed the equivalent of the original document subject to the following conditions:

(1) The electronic filing of a legal document constitutes a certification by the filing attorney that the original hard copy was properly signed and, where applicable, verified.

(2) An executed hard copy of the legal document, with any required verifications, shall be maintained by the filing attorney and produced at the request of the Board or any other party within 14 days of the request.

(e) In filing legal documents electronically, a filing attorney shall be responsible for the following:

(1) An objective description of the legal document consistent with the title placed on the legal document as required by the Board's website.

(2) Any delay, disruption, interruption of the electronic signals and readability of the legal document.

(3) Any risk that a legal document may not be properly or timely filed with the Board.

(f) Hard copy of any electronically filed legal document which exceeds 50 pages in length shall also be filed with the Board in accordance with subsections (a) and (c) and § 1021.37 (relating to the number of copies). Exhibits to legal documents may be filed and served either electronically or by hard copy in accordance with the sections in this chapter relating to filing and service. If these requirements are met by hard copy of exhibits, they must be sent to the Board by mail or express delivery and, in the case of requests for expedited disposition, service shall mean actual receipt by the opposing party as required by § 1021.34(c) (relating to service by a party).

(g) Documents filed by United States mail, hand or other delivery services after the close of the business day at 4:30 p.m. Eastern Time shall be deemed to be filed on the following business day. Documents filed electronically, including by facsimile, shall be deemed filed on the day received by the Board.

(h) Documents filed with the Board, other than exhibits, must be typewritten on letter size paper (approximately 8 to 8 1/2 inches by 10 1/2 to 11 inches) and pages after the first must be numbered. Legal documents, as defined in § 1021.2, must be double spaced, except that footnotes must be single spaced and quotations in excess of a few lines must be single spaced and indented. Photocopied documents will be accepted as typewritten, provided that all copies are legible. Failure to comply with this subsection will not result in dismissal of a filing, but the Board may request the party to resubmit the document in proper form.]

(a) *Conventional filing.* The following documents shall be conventionally filed or facsimile filed:

(1) A complaint that is original process naming a defendant or defendants.

(2) A motion to be excused from the Board's mandatory electronic filing requirement.

(b) *Filing of notice of appeal.* An original notice of appeal may be filed electronically, conventionally, or by facsimile.

(c) *Electronic filing.*

(1) Documents except those listed in subsections (a) and (b) shall be electronically filed unless the Board orders otherwise in a particular proceeding. Persons shall file a motion under § 1021.92 (relating to procedural motions) to be excused from the mandatory electronic filing requirement. The Board will excuse persons from the mandatory electronic filing requirement, with respect to all filings or with respect to specific filings, if the Board determines that the requirement would impose an unreasonable burden on the potential filer.

(2) Documents filed electronically may not also be filed by other means unless the Board orders otherwise or the document to be filed includes an original bond or check. When electronically filing documents including an original bond or check, a copy of the document, including a copy of the original bond or check, shall be electronically filed. The original, including the original bond or check, shall be deposited in the mail, addressed to the Board's headquarters at the address provided in subsection (e)(1).

(3) Electronic filing can be performed only by registered users. Individuals who are not registered users can become registered users by submitting a registration statement to the Board and receiving a password authorizing electronic filing and service. The registration statement must be on a form prepared by the Board and include the user's name and mailing address, e-mail address, attorney identification number (if the registered user is an attorney), a request for authorization to participate in electronic filing and electronic service, and consent to accept electronic service of documents permitted to be electronically filed.

(4) When registration is complete, a registered user may not withdraw from the electronic filing and electronic service system except with leave from the Board.

(5) A filer is responsible for providing an objective description of documents electronically filed. The description must include:

(i) The party filing or serving the document.

(ii) The title of the document (for example, Appellant ABC Corporation's Motion for Summary Judgment, Appellant Smith's Motion to Compel Permittee XYZ, Inc. to Produce Documents).

(6) When a document has been filed electronically, the official record is the electronic document filed with the Board and the filer is bound by the document as filed.

(7) The registered user's log-in and password required to file documents using the electronic filing provider serve as the registered user's signature on electronic documents filed with the Board. The log-in and password serve as a signature for purposes of § 1021.31 (relating to signing) and other purposes for which a signature is required in connection with proceedings before the Board.

(8) If an electronically filed document does not bear the actual signature of the registered user, the name of the registered user under whose log-in and password the document is submitted must be preceded by "s/" and typed in the space in the document's signature block where the signature would otherwise appear (for example, "s/ Jane Doe").

(9) A registered user or other person may not knowingly permit or cause a registered user's password to be used by an individual other than an authorized agent of the registered user.

(10) A document that is electronically filed and requires an original signature other than that of the registered user shall be maintained by counsel or, if the party is not represented by the party itself, for 1 year after periods for appeals expire. Documents shall be maintained by the filer and produced at the request of the Board or other party within 14 days of the request.

(11) Each document filed electronically must indicate in the caption that it has been electronically filed.

(12) Documents may be electronically filed in WordPerfect format, Microsoft Word format, PDF format or other formats permitted by the Board. The electronic filing provider automatically converts uploaded documents not already in PDF format to PDF format. A document may exceed page limitation rules if the additional pages result solely from the electronic conversion by the electronic filing provider.

(13) To the extent practicable, electronically filed documents must be formatted in accordance with subsection (e)(4).

(14) An electronic filing complete before midnight Eastern Time will be considered to be filed on that date so long as it is accepted by the Board. Upon completion of the filing, the electronic filing provider will issue a transaction receipt that includes the date and time the document was received. The transaction receipt serves as proof of filing. If the Board rejects the submitted documents following review, the documents will not become part of the official Board record and the filer will receive notification of the rejection. Filers may be required to refile the documents to meet the necessary filing requirements.

(15) Except in the case of notices of appeal, if electronic filing or service does not occur or is made untimely because of a technical issue, the party affected may seek appropriate relief from the Board.

(16) A registered user shall submit as exhibits or attachments only excerpts of the referenced documents that are directly germane to the matter under consideration by the Board. Excerpted information must be clearly and prominently identified as such. A registered user who files excerpts of documents as exhibits or attachments under this paragraph does so without prejudice to his right to timely file additional excerpts or the complete document and shall, upon request, provide responding parties with the complete document. A responding party may timely file the complete document or additional excerpts that it believes are directly germane.

(d) *Facsimile filing.*

(1) Documents permitted under subsections (a), (b) and (c)(1) and (2) to be filed by facsimile shall be transmitted to the Board's facsimile line at (717) 783-4738.

(2) The date of facsimile filing is the date the document is received by the Board.

(3) For documents more than ten pages long, the facsimile filed must consist of the certificate of service and the first five pages and last five pages of each document except exhibits. Exhibits shall be omitted from the filing transmitted to the Board's facsimile line.

(4) On the same day a document is transmitted to the Board's facsimile line, the original (including exhibits) shall be deposited in the mail, addressed to the Board's headquarters at the address provided in subsection (e)(1). When facsimile filing a document including an original bond or check, a copy of the bond or check must be included with the document transmitted by facsimile. The original bond or check must be included with the original of the document deposited in the mail.

(5) Documents must be formatted in accordance with subsection (e)(4).

(e) *Conventional filing.*

(1) Documents permitted to be conventionally filed with the Board under subsections (a), (b) and (c)(1) and (2) shall be filed at the Board's headquarters—2nd Floor, Rachel Carson State Office Building, 400 Market Street, Post Office Box 8457, Harrisburg, Pennsylvania 17105-8457.

(2) The date of conventional filing is the date the document is received by the Board.

(3) Only hard copies may be conventionally filed unless the filer has secured prior approval from the Board to conventionally file documents in other formats, such as CDs, DVDs or other digital storage media.

(4) With the exception of exhibits, documents filed with the Board must be typewritten on letter-size paper (approximately 8 to 8 1/2 inches by 10 1/2 to 11 inches) and pages after the first must be numbered. With the exception of exhibits, notices of appeal, and complaints, documents filed must be double spaced, except that footnotes must be single

spaced and quotations in excess of a few lines must be single spaced and indented. Photocopied documents will be accepted as typewritten, provided that all copies are legible.

(f) *Format of filing.* Failure to comply with subsection (c)(5) or (11), (d)(5) or (e)(4) will not result in dismissal of a filing, but the Board may request that the party resubmit the document in proper form.

(*Editor's Note:* The following section is new and printed in regular type to enhance readability.)

§ 1021.32a. Privacy issues.

A person filing documents shall refrain from including, or shall redact when inclusion is necessary, the following personal identifiers from documents filed with the Board, including exhibits, unless filed under seal or otherwise ordered by the Board:

- (1) Social Security numbers.
- (2) Financial account numbers.
- (3) Dates of birth.
- (4) Names of minor children.

§ 1021.33. Service by the Board.

(a) Orders, notices and other documents [**originating with**] entered or issued by the Board [**shall**] will be served upon the person designated in the notice of appearance, or if no notice of appearance has been entered, upon the person upon whom the notice of appeal or complaint was served [**by mail or in person**].

(b) The Board will serve documents it enters or issues upon registered users participating in the proceeding through the electronic filing provider, subject to the provisions in this chapter. The Board will serve persons other than registered users by mail or in person.

(c) An order filed electronically without the original signature of an administrative law judge has the same force and effect as if the administrative law judge had affixed a signature to a paper copy of the order.

[Subsection (a) supersedes] (d) Subsections (a)—(c) supersede 1 Pa. Code § 33.31 (relating to service by the agency).

§ 1021.34. Service by a party.

[(a) Copies of each document filed with the Board shall be served upon every party to the proceeding on or before the day that the document is filed with the Board. Service upon a party represented by an attorney in the matter before the Board shall be made by serving the attorney.

(b) When a document is filed with the Board by overnight delivery, facsimile or personal service, it shall be delivered to the opposing parties on the same day or by overnight delivery.

(c) In matters involving requests for expedited disposition, service shall be made within the ensuing 24 hours of the time of filing with the Board. For purposes of this subsection, service means actual receipt by the opposing party.

(d) Service of legal documents may be made electronically on a registered attorney by any other registered attorney. The filing of a registration

statement constitutes a certification that the registered attorney will accept electronic service of any legal document from any other registered attorney. A registration statement includes the attorney's name and address, e-mail address, attorney identification number, and a request to register to file and accept service electronically. A registered attorney may withdraw his registration statement for purposes of a specific case if he chooses not to receive electronic service in that case by filing an amendment to the filing party's registration statement.

(e) Subsections (a)—(d) supersede 1 Pa. Code § 33.32 (relating to service by a participant).]

(a) Notices of appeal shall be served as provided in § 1021.51(h) (relating to commencement, form and content). Complaints filed by the Department will be served as provided in § 1021.71(b) (relating to complaints filed by the Department).

(b) Copies of each document filed with the Board shall be served upon every party to the proceeding on or before the day that the document is filed with the Board. Service upon a party represented by an attorney in the matter before the Board shall be made by serving the attorney.

(c) Electronic service of documents to other registered users through the electronic filing provider shall be considered valid and effective service and have the same legal effect as serving an original paper document. Registered users who receive documents by electronic service shall access the documents using the electronic filing provider.

(d) Documents filed electronically shall be served by hand, mail, other personal delivery, or facsimile upon parties not represented by registered users or, for parties representing themselves, upon parties who are not registered users.

(e) Subpoenas and documents that must be conventionally filed with the Board under § 1021.32(b) (relating to filing) shall be served by hand, mail or other personal delivery. Documents that are conventionally or facsimile filed with the Board under § 1021.32(a) shall be served by hand, mail, other personal delivery or facsimile.

(f) If a party does not receive electronic service in a matter involving a request for expedited disposition, service shall be made upon that party within 24 hours of filing the document with the Board. For purposes of this subsection, service means actual receipt by the party served.

(g) If a person filing electronically becomes aware that the notice of electronic filing was not successfully transmitted to a registered user, or that the notice transmitted to the registered user is defective, the filer shall serve the electronically filed document upon the registered user by hand, mail, other personal delivery or facsimile immediately upon notification of the deficiency.

(h) The filing of a registration statement constitutes a certification that the registered user will accept electronic service of documents permitted to be electronically filed.

(i) Subsections (a)—(h) supersede 1 Pa. Code § 33.32 (relating to service by a participant).

§ 1021.35. Date of service.

[(a) The date of service shall be the date the document served is mailed, delivered in person or transmitted electronically. When service of the document, or hard copy of exhibits to a legal document filed electronically, is by mail, 3 days shall be added to the time required by this chapter for responding to the document.

(b) Subsection (a) supersedes 1 Pa. Code § 33.34 (relating to date of service).]

(a) For electronic service, the date of service of a document is the date that the electronic filing provider transmits the notice of electronic filing. For other types of service, the date of service is the date the document served is mailed, delivered in person or transmitted to the party's facsimile line.

(b) For the sole purpose of computing the deadlines under this chapter for responding to documents:

(1) Documents served by electronic service shall be deemed served, for purposes of responding, when notice of the electronic filing is transmitted to registered users in the proceeding, provided the transmission is complete before 4:30 p.m. Eastern Time on a business day. Otherwise, documents served by electronic service shall be deemed served the next business day.

(2) Documents served by facsimile shall be deemed served, for purposes of responding, when transmission of the facsimile is complete, provided the transmission is complete before 4:30 p.m. Eastern Time on a business day. Otherwise, documents served by facsimile shall be deemed served the next business day.

(3) Documents served by mail shall be deemed served 3 days after the date of actual service.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 33.34 (relating to date of service).

§ 1021.36. Certificate of service.

(a) Each document [**which is required to be**] filed with the Board [**shall**] **must** include a certificate of service which [**shall certify**] **certifies** the date and manner of service and the name and **mailing** address of the person served, **except as provided in subsection (b).**

(b) **For electronic service, it shall be sufficient for the certificate to state that the document was filed using the electronic filing provider and to identify the registered users in the proceedings.**

[**Subsection (a) supersedes**] (c) Subsections (a) and (b) supersede 1 Pa. Code § 33.35 (relating to proof of service).

(Editor's Note: The following section is new and printed in regular type to enhance readability.)

§ 1021.36a. E-mail addresses.

A registered user shall maintain an active e-mail address to receive electronic notice and electronic service from the electronic filing provider. A registered user has a duty to promptly update his e-mail account information with the electronic filing provider when there is a change in e-mail address.

§ 1021.37. Number of copies.

(a) [**Except in the case of electronically filed documents, including exhibits, and unless otherwise ordered by the Board, the following number of copies shall be filed with the Board:**] When a document is electronically filed, the filer shall electronically file one copy of the document.

[(1) **One original and two copies of each of the following:**

(i) **Notices of appeal.**

(ii) **Complaints.**

(iii) **Answers.**

(iv) **Posthearing briefs.**

(v) **Dispositive motions and related memoranda, responses and replies.**

(2) **One original and one copy of each of the following:**

(i) **Petitions for supersedeas and any related responses.**

(ii) **Prehearing memoranda.**

(iii) **Nondispositive motions and petitions (other than motions for stays, extensions and continuances of procedural deadlines), and related memoranda, responses and replies.**

(3) **One original of other documents.]**

(b) **For conventional filings and hard copies mailed to the Board in association with a facsimile filing, one original shall be filed unless the Board orders otherwise.**

(c) One copy of all documents submitted to the Board shall be served on the other parties to the proceeding.

§ 1021.39. Docket.

(a) The Board will maintain a docket of proceedings and a proceeding as initiated [**shall**] **will** be assigned an appropriate designation. The Board will maintain the docket on its [**website**] **web site** available to all members of the public and will accept [**filings of legal documents by electronic transmission from registered attorneys**] **electronic filing of documents from registered users subject to the provisions in this chapter.**

(b) The docket will register the date of all filings as well as the time of the filing if the filing is made electronically. When a document is filed electronically, the [**Board will transmit electronically a status message to all registered attorneys in the proceeding when the document is filed**] **electronic filing provider will transmit a notice of the electronic filing to all registered users in the proceeding.**

(c) The Board will maintain a complete official file on all proceedings consisting of [**both**] **electronic and hard copy filings.** The official copy of an electronically filed document or Board order shall be that appearing on the Board's [**website**] **web site.**

* * * * *

**FORMAL PROCEEDINGS
APPEALS**

§ 1021.51. Commencement, form and content.

(a) An appeal from an action of the Department shall commence with the filing of a [**written**] notice of appeal with the Board.

(b) The caption of [**an**] a notice of appeal must be in the following form:

ENVIRONMENTAL HEARING BOARD
2nd Floor, Rachel Carson State Office Building
400 Market Street, Post Office Box 8457
Harrisburg, Pennsylvania 17105-8457

JOHN DOE, Appellant
234 Main Street, Smithtown,
Jones County, Pennsylvania 15555
(Telephone (123) 456-7890)

[_____ v. Docket No. _____

**Commonwealth of Pennsylvania
Department of _____, Appellee]**

(c) The **notice of appeal** must set forth the name, **mailing address, e-mail address** and telephone number of the appellant. **If the appellant is represented by an attorney, the notice of appeal shall be signed by at least one attorney of record in the attorney’s individual name.**

(d) If the appellant has received written notification of an action of the Department, a copy of the action [**shall**] **must** be attached to the **notice of appeal**.

(e) The **notice of appeal** must set forth in separate numbered paragraphs the specific objections to the action of the Department. The objections may be factual or legal.

(f) **An original notice of appeal shall be filed electronically, conventionally or by facsimile.**

(1) Electronic filing.

(i) If a bond or check is required to secure payment of a penalty, a copy of the bond or check must be included with the electronic filing. The notice of appeal and attachments, including the original bond or check, shall be deposited in the mail, addressed to the Board’s headquarters at the address provided in paragraph (2)(i).

(ii) An electronic filing complete before midnight Eastern Time will be considered to be filed on that date, so long as it is accepted by the Board.

(iii) To the extent practical, the notice of appeal must be formatted in accordance with paragraph (2)(v). Failure to comply with this requirement will not result in dismissal of the notice of the filing. The Board may request that the appellant resubmit the notice of appeal in proper form.

(iv) The appellant shall, concurrent with or prior to the filing of a notice of appeal, serve by facsimile or overnight mail a copy on each of the following:

(A) The office of the Department issuing the notice of Departmental action.

(B) The Office of Chief Counsel of the Department or agency taking the action appealed.

(C) In a third-party appeal, the recipient of the action. The service shall be made at the address in the document evidencing the action by the Depart-

ment or at the chief place of business in this Commonwealth of the recipient.

(2) Conventional filing.

(i) An original notice of appeal that is conventionally filed shall be filed at the Board’s headquarters—2nd Floor, Rachel Carson State Office Building, 400 Market Street, Post Office Box 8457, Harrisburg, Pennsylvania 17105-8457.

(ii) The date of conventional filing is the date the original notice of appeal is received by the Board.

(iii) One copy of the notice of appeal and attachments shall be conventionally filed unless the Board orders otherwise.

(iv) Hard copies of original notices of appeal shall be conventionally filed unless the filer has secured prior approval from the Board to conventionally file the original notice of appeal in another format, such as CDs, DVDs or other digital storage media.

(v) The notice of appeal must be typewritten on letter-size paper (approximately 8 to 8 1/2 inches by 10 1/2 to 11 inches) and pages after the first must be numbered. Photocopies will be accepted as typewritten, provided that the copies are legible. Failure to comply with these requirements will not result in dismissal of a filing. The Board may request that the appellant resubmit the notice of appeal in proper form.

(vi) The appellant shall, concurrent with or prior to the filing of a notice of appeal, serve a copy on the individuals and entities listed in paragraph (1)(iv)(A)—(C) in the same manner in which the notice of appeal is filed with the Board.

(3) Facsimile filing.

(i) Original notices of appeal filed by facsimile shall be transmitted to the Board’s facsimile line at (717) 783-4738. If a bond or check is required to secure payment of a penalty, a copy of the bond or check must be included with the facsimile filing. The notice of appeal and attachments, including the original bond or check, shall be deposited in the mail, addressed to the Board’s headquarters at the address provided in paragraph (2)(i).

(ii) The date of facsimile filing is the date the original notice of appeal is received by the Board.

(iii) For original notices of appeal more than ten pages long, the facsimile filed must consist of the certificate of service and the first five pages and last five pages of each document except exhibits. Except for copies of checks and bonds required to secure payment of a penalty, exhibits shall be omitted from the filing transmitted to the Board’s facsimile line.

(iv) On the same day an original notice of appeal is transmitted to the Board’s facsimile line, the original, including exhibits, shall be deposited in the mail, addressed to the Board’s headquarters at the address provided in paragraph (2)(i).

(v) The notice of appeal must be formatted in accordance with paragraph (2)(v). Failure to comply with this requirement will not result in dismissal of the notice of the filing. The Board may request that the appellant resubmit the notice of appeal in proper form.

(g) When the appeal is from an assessment of a civil penalty for which the statute requires an appellant to prepay the penalty or post a bond, the appellant shall follow the procedures in § 1021.54a (relating to prepayment of penalties) **in addition to the procedures in this section.**

[(g)] (h) Concurrent with or prior to the filing of a notice of appeal, the appellant shall serve a copy thereof on each of the following:

* * * * *

[(h)] (i) For purposes of this section, the term “recipient of the action” includes the following:

* * * * *

[(i)] (j) The service upon the recipient of a permit, license, approval, certification or order, as required under subsection (h)(1), shall subject the recipient to the jurisdiction of the Board, and the recipient shall be added as a party to the third-party appeal without the necessity of filing a petition for leave to intervene under § 1021.81 (relating to intervention). The recipient of a permit, license, approval [or], certification or order who is added to an appeal under this section shall still comply with §§ 1021.21 and 1021.22 (relating to representation; and notice of appearance.)

[(j)] (k) Other recipients of an action under subsection (h)(2), (3) or (4)[,] may intervene as of course in the appeal by filing an entry of appearance within 30 days of service of the notice of appeal in accordance with §§ 1021.21 and 1021.22, without the necessity of filing a petition for leave to intervene under § 1021.81.

[(k) The appellant shall provide satisfactory proof that service has been made as required by this section.]

(l) The original notice of appeal must include a certificate of service which certifies the date and manner of service and the name and mailing address of the person served.

[(l)] (m) Subsections (a)—(k) supersede 1 Pa. Code §§ 35.5—35.7 and 35.9—35.11 (relating to informal complaints; and formal complaints).

SPECIAL ACTIONS

(Editor’s Note: The following section is new and printed in regular type to enhance readability.)

§ 1021.74a. Verification of pleadings.

Pleadings authorized under §§ 1021.71—1021.74 shall be verified in accordance with Pa.R.C.P. 1024 (relating to verification).

MOTIONS

§ 1021.94. Dispositive motions other than summary judgment motions.

* * * * *

(b) A response **in opposition** to a dispositive motion [**may**] shall be filed within 30 days of service of the motion and shall be accompanied by a supporting memorandum of law or brief.

(c) **A notification to the Board that a party joins in a dispositive motion shall be filed within 15 days of service of the motion. Non-moving parties shall not raise any additional legal or factual bases in**

support of the dispositive motion except as permitted by order of the Board.

(d) A reply to a response to a dispositive motion may be filed within 15 days of the date of service of the response, and may be accompanied by a supporting memorandum of law or brief. Reply briefs or memoranda of law shall be as concise as possible and may not exceed 25 pages. Longer briefs or memoranda of law may be permitted at the discretion of the [**presiding administrative law judge**] Board.

[(d)] (e) An affidavit or other document relied upon in support of a dispositive motion or response, that is not already a part of the record, shall be filed at the same time as the motion or response or it will not be considered by the Board in ruling thereon.

(f) When a dispositive motion is made and supported as provided in this rule, an adverse party may not rest upon mere allegations or denials of the adverse party’s pleading or its notice of appeal, but the adverse party’s response must set forth specific issues of fact or law showing there is a genuine issue for hearing. If the adverse party fails to adequately respond, the dispositive motion may be granted against the adverse party.

[(e)] (g) Subsection (a) supersedes 1 Pa. Code § 35.177 (relating to [**the**] scope and content of motions). Subsection (b) supersedes 1 Pa. Code § 35.179 (relating to [**objecting**] objections to motions).

Comment

The responses to a dispositive motion should be limited to the legal and factual bases contained in the motion; a party wishing to raise other grounds for granting a dispositive motion should file a separate motion before the dispositive motion deadline or seek leave from the Board to file a dispositive motion after the dispositive motion deadline.

§ 1021.94a. Summary judgment motions.

* * * * *

(f) Other parties supporting a motion for summary judgment. A notification to the Board that a party joins in a motion for summary judgment may be filed within 15 days of service of the motion. Non-moving parties may not raise any additional legal or factual bases in support of the motion for summary judgment except as permitted by order of the Board.

(g) *Opposition to motion for summary judgment.* Within 30 days of [**the date of**] service of the motion, a party opposing the motion shall file the following:

* * * * *

[(g)] (h) *Length of brief in support of and in opposition to summary judgment.* Unless leave of the Board is granted, the brief in support of or in opposition to the motion may not exceed 30 pages.

[(h)] (i) *Evidentiary materials.* Affidavits, deposition transcripts or other documents relied upon in support of a motion for summary judgment or response must accompany the motion or response and be separately bound and labeled as exhibits. Affidavits must conform to Pa.R.C.P. 76 and 1035.4 (relating to definitions; and affidavits).

[(i)] (j) *Proposed order.* The motion shall be accompanied by a proposed order.

[(j)] (k) *Reply brief.* A reply brief may be filed by the movant within 15 days of the date of service of the response. It may not exceed 15 pages unless leave of the Board is granted. Additional briefing may be permitted at the discretion of the [**presiding administrative law judge**] **Board.**

[(k)] (l) *Summary judgment.* When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading or its notice of appeal, but the adverse party's response, by affidavits or as otherwise provided by this rule, must set forth specific facts showing there is a genuine issue for hearing. If the adverse party does not so respond, summary judgment may be entered against the adverse party. Summary judgment may be entered against a party who fails to respond to a summary judgment motion.

[(l)] (m) *Judgment rendered.* The judgment sought shall be rendered forthwith if the motion record shows that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

Comment

The statement of material facts should be limited to those facts which are material to disposition of the summary judgment motion and should not include lengthy recitations of undisputed background facts or legal context. **The responses to a motion for summary judgment should ordinarily be limited to the legal and factual bases contained in the motion; a party wishing to raise other grounds for summary judgment should file a separate motion before the dispositive motion deadline or seek leave from the Board to file a motion for summary judgment after the dispositive motion deadline.**

PREHEARING PROCEDURES AND PREHEARING CONFERENCES

§ 1021.103. **Subpoenas.**

(a) Except as otherwise provided in this chapter or by order of the Board, requests for subpoenas and subpoenas shall be governed by Pa.R.C.P. 234.1—234.4 [**and**], 234.6—234.9 **and 4009.21—4009.27.** When the term “court” is used in Pa.R.C.P. “Board” is to be understood; when the terms “Prothonotary” or “clerk of court” are used in Pa.R.C.P. “Secretary to the Board” is to be understood.

EVIDENCE

§ 1021.122. **Burden of proceeding and burden of proof.**

* * * * *

(c) A party appealing an action of the Department shall have the burden of proof in the following cases:

* * * * *

(4) When a party appeals or objects to a settlement of a matter between the Department and [**a**] **another** private party.

[ATTORNEY FEES AND COSTS AUTHORIZED BY THE COSTS ACT]

§ 1021.171. [**Scope**] (Reserved).

[**This section and §§ 1021.172—1021.174 (relating to application for fees and expenses; response to**

application; and disposition of application) apply to applications for an award of fees and expenses under the Costs Act.]

§ 1021.172. [**Application for fees and expenses**] (Reserved).

[(a) **An application for fees and expenses shall be verified and shall set forth sufficient grounds to justify the award. It shall also include the following:**

(1) **Identification of the final order under which the applicant claims to be a prevailing party.**

(2) **A statement of the basis upon which the applicant claims to be a prevailing party under the Costs Act.**

(3) **Specific information which is sufficient to demonstrate that the applicant meets the definition of “party” under the Costs Act.**

(4) **An itemized list of recoverable fees and expenses including hours worked, the rate charged, a reasonable description of the work performed during those hours, and the nature and reasonableness of the expenses.**

(5) **The basis for the allegation that the position of the Department was not substantially justified.**

(b) **An applicant shall file an application with the Board within 30 days of the date of the final order under which the applicant claims to have prevailed, and shall be docketed at the same number as that order. An applicant shall simultaneously serve upon counsel of record for the Department a copy of the application in the same manner that it is filed with the Board. Service by telefax shall satisfy the requirements of this rule, if an additional copy is mailed on the same day.**

(c) **An application may be denied sua sponte if it fails to provide all the information required by this section in sufficient detail to enable the Board to grant the relief requested.**

Comment: **In preparing the petition to submit to the Board, an applicant should consider the material contained in 4 Pa. Code Chapter 2, Subchapter A (relating to submission and consideration of applications for awards of fees and expenses) and the Board's prior decisions.]**

§ 1021.173. [**Response to application**] (Reserved).

[(a) **The Department or other interested party shall file its response within 15 days of the filing of an application. The response shall include the following:**

(1) **Raise any challenge to the sufficiency of the application.**

(2) **Demonstrate, if applicable, that the Department's action was substantially justified.**

(3) **Identify special circumstances which would make the award unjust.**

(b) **If the response asserts that the action of the Department was substantially justified, it shall include the following:**

(1) **A statement of the Department's basis for its action.**

(2) A summary of the testimony and exhibits either in evidence or offered into evidence in support of that basis.

(3) The legal justification for the action taken.

(c) When an applicant prevails and no record has been made before the Board, the Department may justify its action with affidavits.]

§ 1021.174. [Disposition of application] (Reserved).

[(a) Each party shall file a brief simultaneously with the filing of its application or response.

(b) The Board will award fees and expenses based upon the application and response if it finds the following:

(1) The applicant is a prevailing party as defined in the Costs Act.

(2) The application presents sufficient justification for the award of fees and expenses.

(3) The action of the Department was not substantially justified, in that it had no reasonable basis in law or in fact.

(4) There are no special circumstances which would make the award unjust or unreasonable.

(c) The Board will not find the Department's action to be substantially justified, if the response fails to present a prima facie case in support of the Department's legal position.

(d) The Board may reduce the amount of an award of fees and expenses, or deny the award, to the extent that the applicant engaged in conduct during the course of the proceedings which unduly and unreasonably protracted the final resolution of the matter in controversy.]

ATTORNEY FEES AND COSTS AUTHORIZED BY
STATUTE [OTHER THAN THE COSTS ACT]

§ 1021.181. Scope.

This subchapter applies to requests for costs and attorney fees when authorized by statute [other than the Costs Act]. When a statute provides procedures inconsistent with these procedures, the statutory procedures will be followed.

APPELLATE MATTERS

§ 1021.201. Composition of the certified record on appeal to Commonwealth Court.

* * * * *

(d) [In the event that a legal document was electronically filed] For electronic filings, a paper copy of the electronic filing will be submitted to the Commonwealth Court as part of the certified record in accordance with this rule, notwithstanding the provisions of § 1021.39(c) (relating to docket) that the official copy of an electronically filed document shall be that appearing on the Board's [website] web site.

[Pa.B. Doc. No. 13-869. Filed for public inspection May 10, 2013, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CHS. 1, 3, 5, 23, 29, 32,
53, 54, 57, 59 AND 62]

[L-2012-2324073]

Paper Copy and Electronic Copy Filing Requirements

The Pennsylvania Public Utility Commission (Commission), on February 28, 2013, adopted a proposed rulemaking order amending existing Commission paper and electronic filing requirements by eliminating additional paper copies of certain documents, increasing the size limit of eFiled documents and dispensing with the requirement for a paper copy of eFiled documents less than 250 pages.

Executive Summary

In order to facilitate a review of its procedural regulations, the Pennsylvania Public Utility Commission (Commission) formed the Efficient Work Group consisting of internal staff from the Commission's Office of Administrative Law Judge, Secretary's Bureau, Law Bureau, Bureau of Investigation and Enforcement (formally Office of Trial Staff), Bureau of Consumer Services, Bureau of Technical Utility Services, Office of Special Assistants and Management Information Services. After a period of study and discussion, the Efficient Work Group determined that due to the recently completed reorganization of the Commission, advances in technology and the ability of many practitioners to make electronic filings at the Commission, the Commission should change some of its procedural regulations to reduce paper copy filings.

Specifically, the Commission proposes to implement changes to its procedural regulations to (1) eliminate the requirement to file additional paper copies, beyond a signed original, of certain documents, (2) increase the size limit of qualified documents that may be electronically filed (eFiled) with the Commission and (3) dispense with the requirement for a paper copy of eFiled documents, that are less than 250 pages in length, to be filed with the Commission. All of these suggested changes are included in this Proposed Rulemaking. These proposed changes to our procedural regulations will result in savings of time and resources for both parties appearing before the Commission and Commission staff by reducing paper copy filings.

Public Meeting held
February 28, 2013

Commissioners Present: Robert F. Powelson, Chairperson;
John F. Coleman, Jr., Vice Chairperson; Wayne E.
Gardner; James H. Cawley; Pamela A. Witmer

*Amendment of Paper Copy and Electronic Copy
Filing Requirements; Doc. Nos. L-2012-2324073,
L-2012-2296005, L-00070187, M-2012-2317481
and M-2008-2072592*

Proposed Rulemaking Order

By the Commission:

The Pennsylvania Public Utility Commission (Commission) proposes to implement changes to its procedural regulations to (1) eliminate the requirement to file additional paper copies, beyond a signed original, of certain documents, (2) increase the size limit of qualified docu-

ments that may be electronically filed (eFiled) with the Commission and (3) dispense with the requirement for a paper copy of eFiled documents, that are less than 250 pages, to be filed with the Commission. These changes to our procedural regulations will result in savings of time and resources for both parties appearing before the Commission and Commission staff by reducing paper copy filings.

Background

In order to review the Commission's procedural regulations to determine whether changes or improvements were needed, the Commission formed the Efficient Work Group. The Efficient Work Group is comprised of internal staff from the Commission's Office of Administrative Law Judge, Secretary's Bureau, Law Bureau, Bureau of Investigation and Enforcement (formerly Office of Trial Staff), Bureau of Consumer Services, Bureau of Technical Utility Services, Office of Special Assistants and Management Information Services. After a period of study and discussion, the Efficient Work Group determined that due to the recently completed reorganization of the Commission, advances in technology and the ability of many practitioners to make electronic filings at the Commission, the Commission should change some of its procedural regulations to reduce paper copy filings.

On July 19, 2012, the Commission adopted a Proposed Rulemaking Order, Docket No. L-2012-2296005 (July 19, 2012 Order), which recommended eliminating the following requirements: (1) the filing of additional paper copies, beyond a signed original, of pleadings, submittals or other documents, filed pursuant to 52 Pa. Code § 1.37(a), and (2) the filing of additional paper copies, beyond a signed original, of exceptions to Commission orders, filed pursuant to 52 Pa. Code § 5.533(d). On August 16, 2012, the Commission issued a Secretarial Letter, Docket Nos. M-2012-2317481 and L-2012-2296005, immediately eliminating the additional paper copy filing requirements recommended for elimination in the July 19, 2012 Order, pending completion of that rulemaking process. That Secretarial Letter also announced that the Commission was temporarily waiving other requirements to file additional paper copies, beyond a signed original, as follows: (1) the filing of additional paper copies of briefs and reply briefs, filed pursuant to 52 Pa. Code § 5.502(b)(1), (2) the filing of additional paper copies of reply exceptions, filed pursuant to 52 Pa. Code § 5.535, and (3) the filing of additional paper copies of tariff supplements, filed pursuant to 52 Pa. Code § 53.51(b).

On August 16, 2012, the Commission also issued a second Secretarial Letter announcing that the Commission is: (1) waiving existing regulations to increase the size limit of qualified documents that may be eFiled¹ and (2) dispensing with the requirement for a paper copy of eFiled documents to be submitted within three business days of eFiling when the documents is less than 250 pages in length.² The two Secretarial Letters issued on August 16, 2012, as well as the July 19, 2012 Order, specifically noted that the proposed changes contained therein would result in significant savings of time and resources for parties appearing before the Commission and for Commission staff by generally reducing paper copy filings. The changes proposed by the Efficient Work Group are incorporated into the rule changes contained within Annex A.

In addition to the regulations contained in the July 19, 2012 Order and the two Secretarial Letters issued on

August 16, 2012, the Efficient Work Group has identified other regulations containing additional paper copy filing requirements. In an effort to maximize efficiency, the Commission proposes to eliminate and/or waive those additional requirements in this Proposed Rulemaking Order (Order). We encourage interested parties filing comments in response to this Order to point out any additional regulations containing paper copy filing requirements they feel should have been addressed. The Commission will also issue a Secretarial Letter notifying interested parties of the elimination and/or waiver of such additional requirements simultaneously with the entry of this Order.

Proposed Rulemaking

As set forth in the July 19, 2012 Order, the additional paper copy filing requirements contained in 52 Pa. Code § 1.37(a) (relating to paper filings generally) and § 5.533(d) (relating to exceptions to Commission orders) are immediately eliminated pending completion of that rulemaking process. In addition to those requirements, the following requirements are also eliminated and/or waived as set forth below.

I. Elimination of Additional Paper Copy Filing Requirements

As indicated below, and in accordance with Section 501 of the Public Utility Code, 66 Pa.C.S. § 501, the Commission is waiving various regulations to eliminate the requirement to file additional paper copies, beyond a signed original, for the below-mentioned documents. If such additional paper copies are filed, the Commission will retain only the signed original in any document folders at the Commission.

§ 3.101. Municipal contracts.

The Commission's regulations at 52 Pa. Code § 3.101 require an executed or reproduction copy and two additional copies of municipal contracts to be filed with the Commission at least 30 days prior to the effective date of the contract. By this Order, the Commission is eliminating the requirement to file two additional paper copies, beyond the executed or reproduction copy, of such municipal contracts.

§ 3.381(a)(3). Applications for transportation of property, household goods in use and persons.

The Commission's regulations at 52 Pa. Code § 3.381(a)(3) require common carriers to file with the Commission an original and two copies of an application for a certificate of public convenience authorizing them to provide transportation service for property, household goods in use and/or persons. By this Order, the Commission is eliminating the requirement to file two additional paper copies, beyond a signed original, of such applications.

§ 3.383(c)(1). Applications for temporary authority and emergency temporary authority.

The Commission's regulations at 52 Pa. Code § 3.383(c)(1) require common carriers to file with the Commission an original and one copy of each application for temporary authority and/or emergency temporary authority. By this Order, the Commission is eliminating the requirement to file one additional paper copy, beyond a signed original, of such applications.

¹ See 52 Pa. Code § 1.32(b)(3).

² See 52 Pa. Code § 1.37(b).

§ 3.501(c). *Certificate of public convenience as a water supplier or wastewater collection, treatment or disposal provider.*

The Commission's regulations at 52 Pa. Code § 3.501(c) require applicants for a certificate of public convenience as a public water or wastewater collection, treatment or disposal provider to "file with the Commission the original and three copies of the application." By this Order, the Commission is eliminating the requirement to file three additional paper copies, beyond a signed original, of such applications.

§ 5.502(b)(1). *Filing and service of briefs.*

The Commission's regulations at 52 Pa. Code § 5.502(b)(1) currently provide that an "original and nine copies of a brief shall be filed with the Commission." The Commission also applies the filing requirements for briefs, requiring a signed original and nine copies, to filings for reply briefs. By this Order, the Commission is eliminating the requirement to file nine additional paper copies, beyond a signed original, of both briefs and reply briefs.

§ 5.535. *Replies.*

The Commission's regulations at 52 Pa. Code § 5.535 (relating to the filing of reply exceptions) do not expressly set forth paper copy filing requirements for reply exceptions. Because this section does not specify the number of additional paper copies to be filed, reply exception filings currently must comply with the general paper filing requirements set forth at 52 Pa. Code § 1.37(a), requiring a signed original and three additional paper copies. By this Order, the Commission is eliminating the requirement to file three additional paper copies, beyond a signed original, of reply exceptions.

§ 23.101(d). *Applications to establish rates related to value.*

The Commission's regulations at 52 Pa. Code § 23.101(d) require common carriers to file with the Commission four copies, one of which shall be verified, of applications to establish rates for the transportation of household goods in use. By this Order, the Commission is eliminating the requirement to file four additional paper copies, beyond a signed original, of such applications. As a result, the signed original paper copy of the application that is filed with the Commission must be verified.

§ 23.121(b). *Filing of tariffs of joint rate.*

The Commission's regulations at 52 Pa. Code § 23.121(b) require common carriers to file with the Commission an original and one copy of tariffs of joint rate. By this Order, the Commission is eliminating the requirement to file one additional paper copy, beyond a signed original, of tariffs of joint rate.

§ 29.303(a). *Service standards and requirements.*

The Commission's regulations at 52 Pa. Code § 29.303(a) require common carriers to file two copies of "time schedules applicable to the service at least 10 days prior to the effective date thereof." By this Order, the Commission is eliminating the requirement to file two additional paper copies, beyond a signed original, of such time schedules.

§ 32.2(c). *Insurance forms and procedures.*

The Commission's regulations at 52 Pa. Code § 32.2(c) require motor carriers to file with the Commission three copies of certificates of insurance, surety bonds and notices of cancellation. By this Order, the Commission is eliminating the requirement to file three additional paper

copies, beyond a signed original, of certificates of insurance, surety bonds and notices of cancellation.

§ 53.51(b). *General (tariff supplements).*

The Commission's regulations at 52 Pa. Code § 53.51(b) currently provide that "[u]tilities with over \$100,000 gross revenues shall file with the Commission Secretary a minimum of eight copies of the proposed rate changes and of the data required under this chapter; all others shall so file a minimum of five copies." By this Order, the Commission is eliminating the following requirements: (1) the filing of eight additional paper copies, beyond a signed original, of proposed rate change documents for utilities with over \$100,000 gross revenues and (2) the filing of five additional copies, beyond a signed original, of proposed rate change documents for all other utilities. Accordingly, all utilities, regardless of gross revenue amount, are only required to file with the Commission a signed original of proposed rate changes.³ While dispensing with the requirement to file additional paper copies of such filings, the Commission encourages utilities to continue providing courtesy copies of these filings to the Commissioners' offices and key bureaus, upon request.

§ 54.32(c). *Application Process.*

The Commission's regulations at 52 Pa. Code § 54.32(c) require electric generation suppliers (EGSs) to file with the Commission an original and eight copies of a completed licensing application. By this Order, the Commission is eliminating the requirement to file eight additional copies, beyond a signed original, of such licensing applications.

§ 54.203(b)(3). *Reporting Requirements.*

The Commission's regulations at 52 Pa. Code § 54.203(b)(3) require electric distribution companies (EDCs) or active EGSs to file with the Commission an original and two copies of a completed retail electricity choice sales activity report form. This regulation also requires EDCs and EGSs to file one paper copy of the report form with the Commission no later than 15 days after the report is due if the form is eFiled. By this Order, the Commission is eliminating the requirement to file two additional paper copies, beyond a signed original, of the report form when such report is filed in paper form. Additionally, consistent with the Commission's Secretarial Letter issued August 16, 2012 (dispensing with the requirement for a paper copy of eFiled documents to be submitted); the Commission is eliminating the requirement for EDCs and EGSs eFiling such report form to also file a paper copy of the eFiled form when the form is less than 250 pages in length.

§ 57.72(d)(2). *Form and content of application.*

The Commission's regulations at 52 Pa. Code § 57.72(d)(2) require electric service providers intending to construct high voltage (HV) electric transmission lines to file with the Commission an original and six copies of the letter of notification and an affidavit of service showing the identity of those to be served by such lines. By this Order, the Commission is eliminating the requirement to file six additional paper copies, beyond a signed original, of the letter of notification. We note that as this regulation is currently written, only one original of the affidavit of service must be filed with the Commission.

§ 57.74(a). *Filing and service of application and notice of filing.*

The Commission's regulations at 52 Pa. Code § 57.74(a) require electric service providers to file with the Commis-

³ We have removed the gross dollar amount distinction from 52 Pa. Code § 53.51(b) in Annex A to reflect this change.

sion an original and six copies of an application to construct HV electric transmission lines. By this Order, the Commission is eliminating the requirement to file six additional paper copies, beyond a signed original, of this application.

§ 57.141(a). *General*

The Commission's regulations at 52 Pa. Code § 57.141(a) require EDCs to file with the Commission an original and three copies of their Annual Resource Planning Report. By this Order, the Commission is eliminating the requirement to file three additional paper copies, beyond a signed original, of the Annual Resource Planning Report.

§ 57.195. *Reporting requirements.*

The Commission's regulations at 52 Pa. Code § 57.195(a)(1) require EDCs to file with the Commission an original and six copies of their annual reliability report. Additionally, the Commission's regulations at 52 Pa. Code § 57.195(d)(1) require EDCs to file with the Commission an original and six copies of their quarterly reliability report. By this Order, the Commission is eliminating the requirement to file six additional paper copies, beyond a signed original, of both annual and quarterly reliability reports.

§ 59.81(a). *Periodic reporting requirements for major gas utilities.*

The Commission's regulations at § 59.81(a) require major gas utilities to file with the Commission an original and five copies of their annual integrated resource planning report. By this Order, the Commission is eliminating the requirement to file five additional copies, beyond a signed original, of annual integrated resource planning reports.

§ 62.103(b). *Application process.*

The Commission's regulations at § 62.103(b) require natural gas suppliers to file with the Commission an original and eight copies of their completed licensing application and supporting attachments. This regulation also requires natural gas suppliers to file an electronic copy of the application. By this Order, the Commission is eliminating the requirement to file eight additional copies, beyond a signed original, of such licensing applications. Additionally, by this Order, the Commission is eliminating the requirement for natural gas suppliers to also eFile a copy of the application that has been filed in paper form. Accordingly, natural gas suppliers may either (1) file with the Commission one signed original paper copy of the licensing application or (2) eFile the application. Consistent with the Commission's Secretarial Letter issued August 16, 2012 (dispensing with the requirement for a paper copy of eFiled documents to be submitted), natural gas suppliers choosing to eFile their licensing application are not required to also submit a paper copy of the application to the Commission within three days of eFiling if the application is less than 250 pages in length.

II. *Increase in Size Limit of Electronically Filed Documents and Elimination of Requirement to File Paper Copies*

As indicated below, and in accordance with Section 501 of the Public Utility Code, 66 Pa.C.S. § 501, the Commission is waiving various regulations to increase the size limit of eFiled documents and to eliminate the requirement to file paper copies of eFiled documents that are less than 250 pages in length. If paper copies of eFiled documents that are less than 250 pages in length are filed, they will not be retained in any document folder at

the Commission. However, if a party insists on submitting paper copies of eFiled documents that are less than 250 pages, the paper copies must include the eFiling Summary Page containing the confirmation number, alerting staff in the Secretary's Bureau that the document has already been eFiled.

§ 1.32(b)(3). *Filing specifications.*

The Commission's regulations at 52 Pa. Code § 1.32(b)(3) provide that a filing, including attachments, that exceeds 5 megabytes in size may not be eFiled. In January 2011, the Commission implemented a pilot project to permit filings, including attachments, up to 10 megabytes to be eFiled. As this pilot project has been successful, the Commission, by this Order, is officially waiving the existing regulations to permit documents up to 10 megabytes in size to be eFiled.

The Commission will continue to monitor the size of documents being filed and the effect on the eFiling system to determine whether this size may be further increased. Accordingly, future proposed rulemakings regarding the size limit of eFiled documents may be appropriate given the Commission's experience with eFiling.

§ 1.37(a)(5). *Number of copies.*

The Commission's regulations at 52 Pa. Code § 1.37(a)(5) provide that parties submitting hard copies of filings that exceed 5 megabytes in size must, in addition to filing an original hard copy, file with the Commission a CD-ROM or DVD containing the filing, including attachments. Consistent with the reasons stated above, by this Order, the Commission is increasing the size limitation for filings that must be submitted on CD-ROM or DVD from 5 megabytes to 10 megabytes in size.

§ 1.37(b). *Number of copies.*

The Commission's regulations at 52 Pa. Code § 1.37(b) require the filing of one paper copy within three business days after an electronic filing is submitted when eFiled documents exceed 250 pages in length. Although the regulations do not require paper copies of eFiled documents that are less than 250 pages, the Commission has requested that eFilers supply one paper copy of these filings including the eFiling summary page with the confirmation number. By having eFilers submit a paper copy, the Commission has been able to fulfill its obligation to retain a signed original paper copy of all filings and to gain a comfort level with the accuracies of the eFiling system.

Having become satisfied with the functionality of the eFiling system and having successfully tested a dedicated printer to produce paper copies of eFiled documents, the Commission, by this Order, is now dispensing with the paper copy requirement for eFiled documents that are less than 250 pages in length. However, for eFiled documents over 250 pages, the Commission will continue to require the submission of one paper copy within three business days after the electronic filing is submitted.⁴ Moving forward, the Commission will evaluate whether this paper copy continues to be necessary for documents over 250 pages in length.

§ 1.59(c). *Number of copies to be served.*

The Commission's regulations at 52 Pa. Code § 1.59(c) provide that "[w]hen a document, including attachments,

⁴ As has been the practice to date, the signed paper copy that is submitted must include the eFiling summary page containing the confirmation number. This will alert the staff in the Secretary's Bureau that the document has already been eFiled and does not require further processing.

exceeds 5 megabytes and must be filed with a CD-ROM or DVD in accordance with § 1.37(a)(5) (relating to number of copies), a party may request service of one copy of the document on a CD-ROM or a DVD instead of one paper copy.” Consistent with the changes made to 52 Pa. Code § 1.37(a)(5) above, by this Order, the Commission is increasing the size limitation for filings that must be submitted on CD-ROM or DVD from 5 megabytes to 10 megabytes in size.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 25, 2013, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Consumer Affairs Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Commission, the General Assembly and the Governor of comments, recommendations or objections raised.

Conclusion

The foregoing amendments to our regulations issued for comment by this Order are intended to simplify practice before the Commission and to diminish the burden upon parties appearing before the Commission by reducing the amount of paper they must file with the agency. These amendments will also result in significant savings of time and resources for parties appearing before the Commission and for Commission staff by generally reducing paper copy filings. The Commission, therefore, formally commences its rulemaking process to amend its existing regulations consistent with Annex A to this Order.

Accordingly, pursuant to Sections 501, 504, 523, 1301, 1501, and 1504, of the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 523, 1301, 1501, and 1504, and Sections 201 and 202 of the Act of July 31, 1968, P. L. 769 No. 240, 45 P. S. §§ 1201—1202, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5; Section 204(b) of the Commonwealth Attorneys Act, 71 P. S. § 732.204(b); Section 745.5 of the Regulatory Review Act, 71 P. S. § 745.5; and Section 612 of the Administrative Code of 1929, 71 P. S. § 232, and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231—7.234, we are considering adopting the proposed regulations as set forth in Annex A, attached hereto; *Therefore,*

It Is Ordered That:

1. A proposed rulemaking be opened to consider the regulations set forth in Annex A.
2. The Secretary shall submit this Proposed Rulemaking Order and Annex A to the Office of Attorney General for review as to form and legality and to the Governor’s Budget Office for review of fiscal impact.
3. The Secretary shall submit this Proposed Rulemaking Order and Annex A for review and comments to the Independent Regulatory Review Commission and the Legislative Standing Committees.

4. The Secretary shall certify this Proposed Rulemaking Order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

5. An original of any written comments referencing the docket number of the proposed regulations be submitted within 30 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn: Secretary, P. O. Box 3265, Harrisburg, PA 17105-3265.

6. A copy of this Proposed Rulemaking Order and Annex A shall be served on the Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, and jurisdictional public utility industry and licensee trade associations.

7. The contact person for legal matters for this proposed rulemaking is Krystle J. Sacavage, Assistant Counsel, Law Bureau, (717) 787-5000. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, Law Bureau, (717) 772-4579.

ROSEMARY CHIAVETTA,
Secretary

Fiscal Note: 57-293. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 1. RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE

Subchapter D. DOCUMENTARY FILINGS

§ 1.32. Filing specifications.

* * * * *

(b) *Electronic filings.*

* * * * *

(3) *Size restriction.* A filing, including attachments, that exceeds [5] 10 megabytes may not be filed electronically.

* * * * *

§ 1.37. Number of copies.

(a) *Paper filings.* When a pleading, submittal or document other than correspondence is submitted in hard copy, an original and [**three copies of each, including**] the cover letter[,] shall be furnished to the Commission at the time of filing, except when:

* * * * *

(5) A filing, including attachments, exceeds [5] 10 megabytes, in addition to filing the requisite number of hard copies in accordance with this subpart, a CD-ROM or DVD containing the filing and an index to the filing shall be filed with the Commission.

(b) *Electronic filings.*

(1) When the qualified document, including attachments, is 250 pages or less and does not exceed [5] 10 megabytes, the filing user may file one electronic copy on the electronic filing system and is not required to file paper copies.

(2) When the qualified document, including attachments, exceeds 250 pages, but does not exceed [5] 10

megabytes, the filing user may file one electronic copy on the electronic filing system and shall also file the original in paper form with the Commission. The original in paper form shall be filed no later than 3 business days after the electronic filing is submitted. The filing date for the qualified document in paper form will be determined in accordance with § 1.11(a)(1)—(3) (relating to date of filing).

* * * * *

Subchapter F. SERVICE OF DOCUMENTS

§ 1.59. Number of copies to be served.

* * * * *

(c) When a document, including attachments, exceeds [5] 10 megabytes and must be filed with a CD-ROM or DVD in accordance with § 1.37(a)(5) (relating to number of copies), a party may request service of one copy of the document on a CD-ROM or a DVD instead of one paper copy.

* * * * *

CHAPTER 3. SPECIAL PROVISIONS

**Subchapter B. INFORMAL PROCEEDINGS
GENERALLY**

APPLICATIONS

§ 3.101. Municipal contracts.

No formal application need accompany municipal contracts filed under section 507 of the act (relating to contracts between public utilities and municipalities), but an executed copy or reproduction copy of the contract [and two additional copies] shall be filed with the Commission at least 30 days prior to the effective date of the contract.

**Subchapter E. MOTOR TRANSPORTATION
PROCEEDINGS**

§ 3.381. Applications for transportation of property, household goods in use and persons.

(a) *Applications.*

* * * * *

(3) *Filing and verification.* An original application [, together with two copies,] shall be filed by the applicant, or an authorized officer or representative, with the Secretary of the Pennsylvania Public Utility Commission, Post Office Box 3265, Harrisburg, Pennsylvania 17105-3265. The application shall be verified under § 1.36 (relating to verification). An application by a common carrier for a certificate of public convenience authorizing the transportation of passengers or household goods in use may be accompanied by verified statements of the applicant and supporting party or firm, as set forth in subsection (c)(1)(iii)(A)(II) and (III). An application by a contract carrier for a permit authorizing the transportation of passengers or household goods in use may be accompanied by a verified statement of the applicant, as set forth in subsection (c)(1)(iii)(A)(II) and a copy of the bilateral contract or statement of the shipper that it will enter into a bilateral contract with the carrier.

* * * * *

§ 3.383. Applications for temporary authority and emergency temporary authority.

* * * * *

(c) *Filing of applications.* An application shall be filed as follows:

(1) *How and where filed.* An original [and one copy] of each application for TA or ETA (Form C) is to be filed with the Secretary, Pennsylvania Public Utility Commission, Harrisburg, Pennsylvania 17105-3265. The envelope containing the application shall be clearly marked: "TA" APPLICATION or "ETA" APPLICATION.

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**Subchapter G. WATER OR WASTEWATER UTILITY
PROCEEDINGS**

§ 3.501. Certificate of public convenience as a water supplier or wastewater collection, treatment or disposal provider.

* * * * *

(c) *Filing.* Applications under this section must conform to §§ 1.31 and 1.32 (relating to requirements for documentary filings; and [form of documents] filing specifications and include a mode of payment as prescribed by § 1.42 (relating to mode of payment of fees) and in the amount delineated in § 1.43 (relating to schedule of fees payable to the Commission). The applicant shall file with the Commission the original [and three copies] of the application. An application which fails to include the information and documents outlined in subsections (a) and (b), as specified by the Commission for water and wastewater collection, treatment or disposal companies, is subject to rejection by the Commission. The original [and three copies] must contain exhibits. An affidavit of service showing the identity of those served under subsection (f) shall accompany the original [and the copies of the] application filed with the Commission.

* * * * *

CHAPTER 5. FORMAL PROCEEDINGS

Subchapter G. BRIEFS

§ 5.502. Filing and service of briefs.

* * * * *

(b) *Number of copies.*

(1) *Paper filing.* An original [and nine copies] of a brief shall be filed with the Commission under § 1.4 (relating to filing generally).

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**Subpart B. CARRIERS OF PASSENGERS OR
PROPERTY**

**CHAPTER 23. TARIFFS FOR COMMON CARRIERS
RATES RELATED TO VALUE OF SHIPMENTS**

§ 23.101. Applications to establish rates related to value.

* * * * *

(d) [Four copies] An original of each application shall be filed [, one of which] and shall be verified.

* * * * *

**GRANTING OF POWER OF ATTORNEY AND
ISSUING OF CONCURRENCE IN TARIFFS OF
COMMON CARRIERS**

§ 23.121. Filing of tariffs of joint rate.

* * * * *

(b) The forms prescribed shall be on paper 8 by 10 1/2 inches in size, and may be either printed or typewritten.

The original [**and one copy**] of the form shall be filed with the Commission and a copy furnished to the carrier or agent in whose favor the instrument is issued.

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CHAPTER 29. MOTOR CARRIERS OF PASSENGERS

Subchapter D. SUPPLEMENTAL REGULATIONS SCHEDULED ROUTE SERVICE

§ 29.303. Service standards and requirements.

(a) *Time schedules.* Common carriers providing scheduled route service shall file with the Commission [**two copies**] **an original** of time schedules applicable to the service at least 10 days prior to the effective date thereof. Printed time schedules and information with respect thereto shall be made available to the public upon a reasonable request.

* * * * *

CHAPTER 32. MOTOR CARRIER INSURANCE

Subchapter A. GENERAL

§ 32.2. Insurance forms and procedures.

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(c) *Filing and copies.* [**Certificates**] **An original of each certificate** of insurance, surety [**bonds and notices**] **bond and notice** of cancellation shall be filed with the Commission [**in triplicate**]. An approved copy will be returned to sender if a self-addressed, stamped envelope is enclosed with the filing.

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Subpart C. FIXED SERVICE UTILITIES

CHAPTER 53. TARIFFS FOR NONCOMMON CARRIERS

INFORMATION FURNISHED WITH THE FILING OF RATE CHANGES

§ 53.51. General.

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(b) Utilities [**with over \$100,000 gross revenues**] shall file with the Commission Secretary [**a minimum of eight copies**] **an original** of the proposed rate changes and of the data required under this chapter [; **all others shall so file a minimum of five copies**]. If necessary or appropriate, the Secretary shall request additional copies.

* * * * *

CHAPTER 54. ELECTRICITY GENERATION CUSTOMER CHOICE

Subchapter B. ELECTRICITY GENERATION SUPPLIER LICENSING

§ 54.32. Application process.

* * * * *

(c) An original [**and eight copies**] of the completed application and supporting attachments shall be filed. An application for a license shall be accompanied by the application fee as established in § 1.43 (relating to schedule of fees payable to the Commission).

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Subchapter H. RETAIL ELECTRICITY CHOICE SALES ACTIVITY REPORTS

§ 54.203. Reporting requirements.

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(b) *Report forms.*

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(3) An EDC or active EGS shall file an original [**and two copies**] of a completed paper report form with the Commission's Secretary and [**CEEP**] **the Bureau of Technical Utility Services**. When the report form is filed electronically, one paper copy of the report form shall be filed with the Commission's Secretary no later than 15 days after the report is due **when the report form exceeds 250 pages**.

* * * * *

CHAPTER 57. ELECTRIC SERVICE

Subchapter G. COMMISSION REVIEW OF SITING AND CONSTRUCTION OF ELECTRIC TRANSMISSION LINES

§ 57.72. Form and content of application.

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(d) Letter of notification in lieu of application:

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(2) The applicant shall file with the Commission the original [**and six copies**] of the letter of notification and an affidavit of service showing the identity of those served under paragraph (3).

* * * * *

§ 57.74. Filing and service of application and notice of filing.

(a) *Filing.* The applicant shall file with the Commission the original [**and six copies**] of the application. An affidavit of service showing the identity of those served under subsections (b) and (c) shall accompany the original [**and the copies of the**] application filed with the Commission.

* * * * *

Subchapter L. ANNUAL RESOURCE PLANNING REPORT

§ 57.141. General.

(a) An electric distribution company (EDC), as defined in 66 Pa.C.S. § 2803 (relating to definitions), shall submit to the Commission the Annual Resource Planning Report (ARPR) that contains the information prescribed in this subchapter. An original [**and three copies**] of the report shall be submitted on or before May 1, 2000 and May 1 of each succeeding year. One copy of the report shall also be submitted to the Office of Consumer Advocate (OCA) and the Office of Small Business Advocate (OSBA). The name and telephone number of all persons having knowledge of the matters, and to whom inquiries should be addressed, shall be included.

* * * * *

Subchapter N. ELECTRIC RELIABILITY STANDARDS

§ 57.195. Reporting requirements.

(a) An EDC shall submit an annual reliability report to the Commission, on or before April 30 of each year.

(1) An original [and six copies] of the report shall be filed with the Commission's Secretary and one copy shall also be submitted to the Office of Consumer Advocate and the Office of Small Business Advocate.

* * * * *

(d) An EDC shall submit a quarterly reliability report to the Commission, on or before May 1, August 1, November 1 and February 1.

(1) An original [and six copies] of the report shall be filed with the Commission's Secretary and one copy shall also be submitted to the Office of Consumer Advocate and the Office of Small Business Advocate.

* * * * *

CHAPTER 59. GAS SERVICE

ANNUAL RESOURCE PLANNING REPORT

§ 59.81. Periodic reporting requirements for major gas utilities.

(a) For the purposes of this subchapter, each jurisdictional public utility with sales of 8 billion cubic feet per year or more including transportation volume shall submit to the Commission an annual integrated resource planning report. Except for Form 1A/2A, whose filing date is March 1, [copies] an original copy of the report shall be submitted on or before June 1, 1996, and June 1 of successive years. [An original and five copies of

the report shall be submitted.] This report shall include a plan that includes the past year's historical data, program changes, and the next 3-year forecast. One copy of the report shall also be submitted to the Office of Consumer Advocate, the Office of Small [Business Advocate and the Office of Trial Staff] Business Advocate and the Bureau of Investigation and Enforcement. The information contained within the report shall conform to the following requirements:

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CHAPTER 62. NATURAL GAS SUPPLY CUSTOMER CHOICE

Subchapter D. LICENSING REQUIREMENTS FOR NATURAL GAS SUPPLIERS

§ 62.103. Application process.

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(b) An original [and eight copies] of the completed application and supporting attachments shall be filed. [An electronic copy of the application shall also be filed.] An application for a license shall be accompanied by the application fee as established in § 1.43 (relating to schedule of fees payable to the Commission).

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[Pa.B. Doc. No. 13-870. Filed for public inspection May 10, 2013, 9:00 a.m.]