

PROPOSED RULEMAKING

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CHS. 1 AND 5]

[L-00070187/57-258]

Electronic Filing

The Pennsylvania Public Utility Commission on August 30, 2007, adopted a proposed rulemaking order which sets forth amendments to its procedural regulations to accommodate electronic filing.

Executive Summary

On September 10, 2007, at Doc. No. L-00070187, the Pennsylvania Public Utility Commission (Commission) entered a proposed rulemaking order soliciting comments on establishing regulations to permit electronic filing. Interested persons were provided with 60 days from the date the order was published in the *Pennsylvania Bulletin* to submit comments regarding the proposed regulations.

The Commission is proposing amendments to its procedural regulations, in 52 Pa. Code Chapters 1 and 5 (relating to rules of administrative practice and procedure; and formal proceedings), to accommodate electronic filing once the Commission's Information Management and Access Project (InfoMAP) is implemented. InfoMAP will allow for more efficient access by consumers, utilities, and practitioners to documents filed with and produced by the Commission through the implementation of electronic filing and access. The Commission anticipates that public documents currently available in the Secretary's Bureau will be posted on the Commission's website, thus, providing the public with greater and easier access to information about the Commission proceedings. The Commission anticipates that it will be capable of receiving electronic filings and providing electronic access to information by the spring of 2008.

The Commission views the proposed regulations as a transitional step toward replacing paper with electronic documents by allowing filers to submit certain documents electronically without additionally filing paper copies. The regulations also broaden the service rules to accommodate electronic service by the Commission and between parties. Electronic filing will be optional, rather than mandatory, at the onset, and filers will retain the option of submitting documents to the Commission in paper form as they do currently.

Public Meeting held
August 30, 2007

Commissioners Present: Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Terrance J. Fitzpatrick; Tyrone J. Christy; Kim Pizzigrilli

Proposed Rulemaking to Permit Electronic Filing; Doc. No. L-00070187

Proposed Rulemaking Order

By the Commission:

The Commission is proposing amendments to its procedural regulations in order to accommodate electronic filing once the Commission's Information Management and Access Project (InfoMAP) is implemented. One of the

major purposes of InfoMAP is to allow for more efficient access by consumers, utilities, and practitioners to documents filed with and produced by the Commission through the implementation of electronic filing, access, and e-commerce initiatives. We anticipate that public documents currently available for viewing in the Secretary's Bureau will be posted on the Commission's website, thus, providing the public with greater and easier access to information regarding Commission proceedings. The InfoMAP project is well underway, and we anticipate that the Commission will be capable of receiving electronic filings and providing electronic access to information by the spring of 2008.

While the Commission encourages filers to take full advantage of InfoMAP's electronic filing capabilities, electronic filing will be optional, rather than mandatory, at the onset. Filers will retain the option of submitting documents to the Commission in paper form as they do currently. The Commission views the proposed regulations as a transitional step toward replacing paper with electronic documents by allowing filers to submit certain types of documents to the Commission electronically without additionally filing paper copies. The regulations also broaden the service rules to accommodate electronic service by the Commission and between parties. Increased use of electronic filing and service over time will reduce the burden and expense associated with paper documents and will help make information available to the public and to parties in a faster and more efficient manner. The Commission seeks to maintain some flexibility initially within the regulations; however, we may consider making additional changes to the regulations after 1 or 2 years of experience with electronic filing and will continue to consider whether modifications are needed.

In place of an advance notice of proposed rulemaking, the Commission engaged in an extensive stakeholder process to solicit input from interested parties. The proposed regulations reflect the detailed comments the Commission received, both in writing and in discussions held during numerous meetings with various Commission bureaus and external stakeholders, including law firms, utilities, and other government entities that frequently appear before the Commission. The proposed regulations also reflect the Commission's examination of electronic filing regulations and accompanying information systems in place in various other state utility commissions, the Federal Energy Regulatory Commission, and state and Federal courts.

Accordingly, we are publishing the changes as marked in Annex A as a proposed rulemaking, and we are soliciting additional comments from stakeholders and other interested parties. Annex A contains specific changes in which deletions are marked by brackets and additions are boldfaced.

This order contains a description of the substantive changes we are proposing. Sections that are included in Annex A, but are not discussed here, contain only ministerial proposed changes that will enable the Commission to permit electronic filing. In the interest of brevity, we will not address each ministerial change in detail.

Chapter 1. Rules of Administrative Practice and Procedure

Subchapter A. General Provisions.

This subchapter contains proposed regulations that establish the general framework to permit electronic filing. In addition to the current methods available for filing by mail or in person, § 1.4(a)(3) (relating to filing generally) provides the option to file “qualified documents” with the Commission on the electronic filing system. “Qualified document” is defined in § 1.8 (relating to definitions) as a document that is listed on the Commission’s website as a document that may be filed electronically and that complies with the requirements and restrictions for electronic filing set forth in § 1.32(b) (relating to form of documents).

To provide parties with notice and the opportunity to provide input regarding the documents the Commission designates as “qualified documents,” the Commission will determine by order which documents are permitted to be filed electronically. This process is consistent with the Commission’s intention to transition into electronic filing and to initially allow only certain categories of documents to be filed electronically. At the same time, the Commission will retain the flexibility to expeditiously add or remove documents on the list over time once the Commission and filers have the opportunity to adjust to using the electronic filing system and can better determine which documents are most suitable for electronic filing.

The Commission anticipates that consumers will be capable of filing formal complaints on the electronic filing system. Prior to filing a formal complaint electronically, consumers will be provided with detailed information regarding the formal complaint process. The electronic filing system will also provide consumers with options available to them other than filing a formal complaint, including the option to file an informal complaint, to register an objection or comment to a proposed rate increase, and to resolve the problem through mediation. Individuals who file a formal complaint on the system will be required to register as filing users and to provide information including their name and mailing address, an indication of whether or not they agree to receive electronic service, and an e-mail address if they agree to receive electronic service.

Several other definitions have been added to § 1.8 that pertain solely to electronic filing and will assist filers in navigating the Commission’s electronic filing system. The definition for “confirmation of receipt” explains that, upon receipt of a filing, the electronic filing system will automatically produce a notification that informs a filing user that a filing was successfully received and contains the date and time of receipt and a link to the filed document.

The definition of a “filing user” refers individuals to a set of instructions on the Commission’s website for registration to become a filing user. The definition further states that registration as a filing user constitutes an agreement to receive electronic service, unless the filing user indicates upon registration that he or she does not agree to receive electronic service. The Commission encourages filers participating in the electronic filing system to accept electronic service. However, if a filer, particularly a consumer complainant who does not appear before the Commission frequently, does not wish to accept electronic service for a reason, such as lack of home access to a computer, the filer will have the opportunity when registering on the system to indicate that he or she does not agree to receive electronic service.

When registering to use the system, e-filers will be asked to provide information, including their name, the party they represent, their address, and their e-mail address if they agree to receive service electronically. Filing users will be able to provide two e-mail addresses for service purposes, a primary and a secondary e-mail address. Both e-mail addresses will appear on the Commission’s service list in accordance with proposed § 1.51 (relating to instructions for service, notice and protest). Filing users will be able to update their registration and contact information on the system at any time.

The definition for “PDF,” portable document format, contains information regarding the type of PDF document that must be used. The PDF filing must be capable of being printed and copied, without any restrictions, and may not require a password to view the document. The PDF requirements are more lenient with regard to attachments that accompany the filing and may have been provided from sources other than the filing user. While the filing user should adhere to the PDF requirements for attachments also, when feasible, we realize that attachments will not always be submitted in the PDF type that is required for documents prepared by the filing user.

Subchapter B. Time

§ 1.11. Date of filing.

This section indicates that the date on the confirmation of receipt, if prior to 4:30 p.m. local prevailing time on a day that the Commission offices are open, will be deemed to be the date of filing. The 4:30 p.m. deadline established for electronic filing coincides with the Commission office hours of 8 a.m. to 4:30 p.m. as set forth in § 1.6 (relating to Commission office hours). The proposed deadline is also consistent with the 4:30 p.m. local prevailing time deadline pertaining to the date of service in § 1.56(a)(4) and (5) (relating to date of service).

Moreover, if filing users have technical difficulties using the electronic filing system initially, they can contact the Secretary’s Bureau during office hours. If a filing user is unable to meet the 4:30 p.m. deadline due to technical difficulties, the filing user may request appropriate relief from the Commission consistent with current § 1.15 (relating to extensions of time and continuances).

§ 1.16. Issuance of decisions by presiding officers.

This section is being amended to reflect that the date of issuance of a decision by a presiding officer will be the date that the decision is posted on the Commission’s electronic filing system. Parties will be notified of the issuance date in different manners, depending on whether or not they are registered filing users and have agreed to receive electronic service. Filing users who agree to receive electronic service will be notified electronically that the decision was posted on the electronic filing system and will be provided with a link to the decision. For purposes of consistency and fairness, the Secretary will mail a paper copy of the decision to parties who are not filing users or who have not consented to electronic service on the same day that the decision is posted on the electronic filing system. The issuance date, that is, the posting date, will be clearly marked on the electronic posting and on paper copies of the decision.

Subchapter D. Documentary Filings

§ 1.32. Filing specifications.

The proposed amendments in this section contain the rules for participation and revocation of participation in the electronic filing system and the requirements and restrictions for documents that are electronically filed.

Subsection (b)(1) explains that the instructions for registration as a filing user are on the Commission's website. This subpart also clarifies the Commission's decision to initially make electronic filing optional, rather than mandatory.

The four main requirements for electronic filings are set forth in subsection (b)(2). The requirements state that the filing must comply with the margins, spacing and type size requirements that currently apply to paper filings, that the filing must be a "qualified document," that the filing must be filed in PDF, and that the filing must be made according to the instructions on the Commission's website. As discussed previously, the complete definition of "qualified document" and the requirements for the type of PDF that must be used are set forth in § 1.8.

The restrictions for electronic filings are contained in subsection (b)(3) and (4). The regulations state that there is a size limitation of 5 megabytes per filing, including attachments. Initially, we will only accept one entire filing that does not exceed 5 megabytes, and filers will not be permitted to file several, separate documents that are 5 megabytes or less and, together, amount to a single filing. The reason for the 5 megabyte limitation is that when a filing user first transmits a filing to the Commission, the filing is sent to a secure temporary storage location, the web server, before being sent to our internal InfoMAP system. As the Commission transitions into electronic filing, we want to ensure that the web server can handle the size of the data in a filing and the bandwidth from multiple filing users.

In addition, filing users are prohibited from electronically filing any documents that contain proprietary or other confidential information, including confidential security information as defined in the Public Utility Confidential Security Information Disclosure Protection Act (35 P. S. §§ 2141.1—2141.6).¹ All documents containing proprietary or confidential information must be submitted in paper form.² Filers have the option of filing redacted, public versions of such documents in either paper form or on a CD-ROM or DVD. The Commission will post redacted, public versions of documents on the electronic filing system.

While the Commission encourages parties to file documents electronically, the proposed regulations provide filing users with the opportunity to revoke their participation in the electronic filing system. Subsection (b)(5)(i) is a general revocation provision that permits parties to revoke their status as filing users for all Commission proceedings when they determine that they no longer wish to use the electronic filing system. Upon receipt of a filing user's notice of revocation, the Secretary will cancel the filing user's user ID and password. If the filing user is a party to an active proceeding at the time of revocation and has consented to receive electronic service, the filing user must serve the other parties to the proceeding with a notice of revocation.

The proposed regulations furthermore provide the Commission with authority to revoke a filing user's participation in the electronic filing system, after providing the filing user with notice, if the Commission determines that

the filing user is abusing the privileges associated with using the electronic filing system. As indicated in subsection (b)(5)(iii), abuse of the Commission's electronic filing privileges includes knowingly permitting unauthorized use of a user ID and password and knowingly engaging in actions that interfere with the security of the electronic filing system, including the introduction of a virus or destructive programming into the system.

§ 1.35. Execution.

The main purpose of the amendments to this section is to provide information regarding what constitutes an electronic signature. Subsection (a)(2) states that an electronic filing shall include an electronic signature when it is filed on the electronic filing system by a filing user or authorized agent of a filing user by means of a user ID and password. The proposed regulations also provide additional requirements that must accompany a document containing an electronic signature, including a notation on the first page that the document was filed electronically and a signature block containing the name, office and e-mail address of the filing user.

In order to provide extra security protections for the electronic filing system, subsection (a)(3) establishes the limitation that only a filing user or authorized agent of the filing user are permitted to use the filing user's user ID and password. As explained in § 1.8, an authorized agent is a person with permission from the filing user to legally act on behalf of the filing user. For practical purposes, when the filing user is an attorney, an authorized agent may be another attorney in the filing user's office or a paralegal or assistant filing on the attorney's behalf.

§ 1.36. Verification.

The proposed amendments to this section will allow verifications and affidavits to be electronically filed. When a verification is executed by a filing user, the filing user's user ID and password constitutes the filing user's signature and is, therefore, a valid personal verification. A verification signed electronically by a filing user is subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Verifications will most often be made by individuals who are not filing users, as verifications are required under this section to be made by "a party thereto or by an authorized officer or other authorized employee of the party if a corporation or association." Similarly, an affidavit must be notarized, and it is likely that the notary will not be a registered filing user. Therefore, in order to ensure that the Commission receives a valid signature from an individual who is attesting to the truth of facts set forth in an application, petition, formal complaint, motions and answers thereto, a filing user is required to submit a scanned original of a verification by an individual who is not a filing user and of an affidavit. In these instances, the original verification and affidavit must also be filed in paper form within 3 business days after the electronic filing is made. When filing the original verification or affidavit in this manner, the docket number for the filing must be clearly indicated on the verification or affidavit.

§ 1.37. Number of copies.

The purpose of the amendments to this section is to change the number of copies required to be filed to coincide with the implementation of electronic filing. Subsection (a)(5) will require filers to submit a CD-ROM or DVD along with the requisite number of paper copies for filings that exceed 5 megabytes and may not be filed

¹ The purpose of the Public Utility Confidential Security Information Disclosure Protection Act is to create mechanisms for the safeguarding of confidential security information of public utilities that is provided to various state agencies, such as the Commission, from disclosure that may compromise security against sabotage or criminal or terrorist acts. The Commission adopted proposed regulations regarding implementation of the Act at Docket No. L-00070185.

² The standards for protection of "proprietary" information are set forth in § 5.423. of the Commission's regulations, 52 Pa. Code § 5.423.

electronically. The CD-ROM or DVD that contain the filing, along with an index to the filing, will assist the Commission with placing large filings on the electronic filing system for public viewing.

As we transition into electronic filing, the Commission is eliminating the requirement for filing users to submit paper copies, when feasible. The current general requirement is that filers must submit in hard copy an original and three copies of documents. As set forth in subsection (b)(1), when the qualified document is 250 pages or less and does not exceed 5 megabytes, the filing user is not required to submit any paper copies. When the qualified document exceeds 250 pages, but does not exceed 5 megabytes, the filing user must submit only one original of the filing in paper form along with the electronic filing. The filing user is permitted three additional business days to file the original in paper form. Documents that exceed 250 pages and the 5 megabyte limitation must be filed in paper form, along with a CD-ROM or DVD containing the filing. At the beginning of electronic filing implementation, we have determined that it will be a smoother internal transition for the Commission if the Secretary's Bureau receives one hard copy of large filings. Nevertheless, the Commission believes that any reduction in the number of paper copies required to be filed will provide cost savings to parties on personnel hours, postage and paper.

Subchapter E. Fees

§ 1.42. Mode of payment of fees.

The proposed addition to this section recognizes electronic payment as a new method, in addition to the current methods available, for paying existing Commission fees. This new payment method will allow filing users to submit filing fees electronically at the same time as they file a document that requires a filing fee.

Subchapter F. Service of Documents

§ 1.51. Instructions for service, notice and protest.

Provisions have been added to this section to indicate that the Commission will post a service list for parties and a notification list for interested nonparties on the electronic filing system. The service list and notification list will pertain to a specific docket number for a proceeding and will be accessible only to registered filing users who are parties or interested nonparties in that particular proceeding. The lists will contain the names and addresses of parties or interested nonparties in a particular proceeding, the manner by which parties or interested nonparties have agreed to receive service, and the e-mail addresses of parties or interested nonparties who have agreed to receive electronic service or notification. When a filing user is making an initial filing in a case and requires general information to serve other filing users, the filing user will be able to conduct a search on the electronic filing system for the names and e-mail addresses of other registered filing users.

§ 1.53. Service by the Commission.

A provision in subsection (b)(3) has been added to enable the Commission to electronically serve filing users who have agreed to receive electronic service. The Commission will send an electronic mail notice to the e-mail address or addresses the filing users provided upon registration. The notice will inform filing users that a document was posted on the electronic filing system and will provide a link to the document on the system so that filing users can directly access the document from their e-mail.

§ 1.54. Service by a party.

The proposed additions to this section contain specific details regarding the manner in which parties, particularly those who are registered filing users and have agreed to receive electronic service, will serve each other. If a party has not agreed to receive electronic service, that party will be served in hard copy by first class mail or personally, consistent with subsection (b)(1) and (2) of the current regulations. As set forth in subsection (b)(3)(i), for documents that are not filed with the Commission there is a general rule that service may be made electronically if the parties have agreed to accept service in that manner.

A set of detailed service rules are contained in subsection (b)(3)(ii) for documents that have been filed with the Commission. Service will be effective when filing users serve other filing users who have agreed to receive electronic service with an electronic mail notice indicating that a document was filed on the electronic filing system. The electronic mail notice must contain the name of the filing user and the party on whose behalf the document was filed, the type of document that was filed, a brief description of the document, a link to the document on the electronic filing system, the docket number if available, and an indication that the party is seeking expedited relief, if applicable. If the party serving the document becomes aware that the electronic mail notice was not sent successfully, the party shall send the electronic mail notice again or serve the document by another acceptable method in this subparagraph.

To help parties avoid extra costs that may be associated with printing large filings, subsection (b)(3)(ii)(C) contains page limitations on documents that may be served electronically. When parties are serving filing users who have agreed to receive electronic service with documents that are 250 pages or less, including attachments, they are not required to serve any hard copies. However, when serving a document that exceeds 250 pages, including attachments, a party is required to serve the document in hard copy unless the parties otherwise agree.

§ 1.57. Proof of service.

§ 1.58. Form of certificate of service.

These corresponding sections now contain provisions that slightly alter the certificate of service format for documents that are filed electronically. Consistent with the procedures for electronic filing, documents filed on the Commission's electronic filing system must contain a certificate of service stating that the document was filed electronically. In addition, the certificate of service must indicate the manner, either electronically or by paper, by which each party was served.

Chapter 5. Formal Proceedings

Subchapter G. Briefs.

§ 5.502. Filing and service of briefs.

This section has been amended in order to be consistent with the number of copies required for electronic filings as set forth in proposed § 1.37 (relating to number of copies). Subsection (b)(2)(i) states that when the brief, including attachments, is 250 pages or less, and does not exceed 5 megabytes, the filing user is not required to submit any paper copies. Subsection (b)(2)(ii) states that when the brief, including attachments, exceeds 250 pages, but does not exceed 5 megabytes, the filing user must submit only one original of the brief in paper form along with the electronic filing. The filing user is permitted 3 additional business days to file the brief in paper form.

Furthermore, in subsection (b)(2)(iii), when the brief, including attachments, exceeds the electronic filing system's 5 megabyte limitation, the filing user must submit the requisite number of hard copies and a CD-ROM or DVD containing the brief and an index to the brief to assist the Commission in placing the brief on the system for public viewing.

Subchapter H. Exceptions, Appeals and Oral Argument

§ 5.533. Procedure to except to initial, tentative and recommended decisions.

A provision was added to subsection (d) to allow filing users to file exceptions electronically, consistent with § 1.37(b).

Accordingly, under 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501, and the Commonwealth Documents Law (45 P. S. §§ 1201, et seq.), and the regulations promulgated thereunder in 1 Pa. Code §§ 7.1, 7.2 and 7.5, the Commission proposes adoption of the proposed regulations to permit electronic filing, as noted and set forth in Annex A; *therefore*,

It Is Ordered that:

1. This docket be continued in order to consider the proposed regulations set forth in the attached Annex A.

2. The Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to legality.

3. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

4. The Secretary shall submit this order and Annex A for review and comment by the designated standing committees of both houses of the General Assembly, and for review and comment by the Independent Regulatory Review Commission.

5. The Secretary shall deposit this order and Annex A with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. Interested persons may submit written comments, an original and 15 copies, to James J. McNulty, Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, and shall have 60 days from the date this order is published to submit comments.

6. The contact person for this rulemaking is Jaime M. McClintock, Law Bureau, (717) 783-2811. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, Law Bureau, (717) 772-4597.

7. A copy of this order shall be served upon all persons who submitted comments in this rulemaking proceeding.

By the Commission

JAMES J. MCNULTY,
Secretary

Fiscal Note: 57-258. 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 A. GENERAL PROVISIONS

§ 1.4. Filing generally.

(a) Submittals, pleadings and other documents filed with the Commission should be [**addressed as follows**] **submitted in one of the following manners:**

* * * * *

(3) Electronically on the Commission's electronic filing system if the document is a qualified document.

* * * * *

§ 1.8. Definitions.

(a) Subject to additional definitions contained in subsequent sections which are applicable to specific chapters or subchapters, the following words and terms, when used in this subpart, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Authorized agent—A person with permission to legally act on behalf of the filing user.

Confirmation of receipt—A notification generated by the electronic filing system upon receipt of a filing. The notification will inform the filing user of successful receipt of a filing and will contain the date and time the filing was received and a link to the filing.

Electronic filing or filed electronically—Filing by means of the Commission's electronic filing system.

Electronic filing system—The Commission's automated system that receives and stores documents filed in electronic form. This system is part of the Commission's Information Management and Access Project.

* * * * *

Filing user—A person who has registered to use the electronic filing system in accordance with the registration instructions available on the Commission's web site at <http://www.puc.state.pa.us/> and who has obtained a user ID and password. Registration as a filing user constitutes an agreement to receive electronic service, unless the filing user indicates upon registration that the filing user does not agree to receive electronic service.

Filing user ID—The distinct code assigned by the Commission to an individual for use in the Commission's electronic filing system and deemed to be the individual's signature.

* * * * *

PDF—Portable Document Format—The PDF document and attachments, when feasible, shall be capable of being printed and copied, without restriction, and may not require a password to view the contents of the document.

* * * * *

Qualified document—A document that is listed in the categories of documents that are permitted to be filed electronically in accordance with the instructions on the Commission’s website at <http://www.puc.state.pa.us/> and that complies with the filing requirements and restrictions in § 1.32(b) (relating to filing specifications). The Commission will determine by order the documents that constitute qualified documents.

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Writing or written—Applies to documents filed in paper form and documents filed electronically.

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Subchapter B. TIME

§ 1.11. Date of filing.

(a) Whenever a pleading, submittal or other document is required or permitted to be filed under this title or by statute, it will be deemed to be filed on one of the following dates:

* * * * *

(4) On the date stated on the confirmation of receipt from the Commission’s electronic filing system, when the time shown is prior to 4:30 p.m. local prevailing time and the date shown is a day on which the Commission offices are open. When a document is filed electronically when the offices of the Commission are closed, the document will be deemed to be filed at the time the offices next open.

* * * * *

§ 1.16. Issuance of decisions by presiding officers.

(a) [In computing a period involving the issuance of a decision by a presiding officer, the day] The date of the issuance of a decision by a presiding officer shall be the date on which the [Secretary mails copies of the decisions to the participants. The Secretary shall clearly indicate on each decision the date of the mailing.] decision is posted on the Commission’s electronic filing system. The date of the issuance will be clearly indicated on the decision that is posted on the electronic filing system.

(b) The Secretary will mail a decision to parties who are not filing users or have not agreed to receive electronic service. The decision will be deposited in the United States mail on the same date that the decision is posted on the Commission’s electronic filing system. The date of the issuance will be clearly indicated on each paper copy of the decision that is mailed to parties.

(c) Parties who are filing users and have agreed to receive electronic service will be notified electronically that the decision has been posted on the Commission’s electronic filing system and provided with a link to the decision.

Subchapter D. DOCUMENTARY FILINGS

§ 1.32. [Form of documents] Filing specifications.

(a) **Paper filings.** A paper filing made with the Commission must be:

(1) **Typewritten.** Pleadings, submittals or other documents filed in proceedings, if not printed, [shall] must be typewritten on paper cut or folded to letter size, 8 to 8 1/2 inches wide by 10 1/2 to 11 inches long, with left-hand

margin [not less than] at least 1 [1/2 inches] inch wide and other margins [not less than] at least 1 inch. The impression [shall] must be on only one side of the paper, unless there are more than four pages, and shall be double spaced, except that quotations in excess of a few lines shall be single spaced and indented. Reproduced copies will be accepted as typewritten, if copies are clearly legible.

[(b)] (2) **Printed.** Printed documents [may not] must be [less than] at least 10-point type on unglazed paper, cut or folded so as not to exceed 8 1/2 inches wide by 11 inches long, with inside margin [not less than] at least 1 inch wide, and with double-leaded text and single-leaded, indented quotations.

[(c) Binding] (3) **Bound.** Pleadings, submittals and other documents, other than correspondence, [shall] must be stapled, fastened or otherwise bound at the left side only.

(b) **Electronic filings.**

(1) **Participation.** A person may register to use the electronic filing system in accordance with the registration instructions available on the Commission’s website at <http://www.puc.state.pa.us/>. A person will not be required to register to use the electronic filing system to be a party in a Commission proceeding. A person that does not register to use the electronic filing system shall file and serve documents, and shall be served in accordance with the rules in Chapters 1, 3 and 5 (relating to rules of administrative practice and procedure; special provisions; and formal proceedings) for the filing and service of documents in paper form.

(2) **Requirements.** An electronic filing made with the Commission must:

(i) Comply with the requirements in subsection (a) regarding to margins, spacing and type size.

(ii) Be a qualified document as defined in § 1.8 (relating to definitions).

(iii) Be filed in PDF as defined in § 1.8.

(iv) Be filed in accordance with the instructions made available on the Commission’s website at <http://www.puc.state.pa.us/>.

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

(4) **Restriction for filings containing confidential information.** Filings containing confidential information, including confidential security information, as defined in section 2 of the Public Utility Confidential Security Information Disclosure Protection Act (35 P. S. § 2141.2) may not be filed electronically. Filings containing confidential information shall be filed in paper form. Redacted, public versions of the filings shall be filed in paper form or on a CD-ROM or DVD. The Commission will post redacted, public versions on the electronic filing system.

(5) **Revocation of participation in the electronic filing system.**

(i) **Revocation by the filing user.** Filing users may revoke their participation in the electronic filing system for all Commission proceedings by filing a notice of revocation with the Secretary. Upon re-

cept of the notice, the Commission will cancel the filing user's user ID and password. Filing users who are parties in an active Commission proceeding at the time of revocation and who have agreed to receive electronic service, shall serve the other parties to the proceeding with a notice of revocation.

(ii) *Revocation by the Commission.* The Commission may revoke a filing user's participation in the electronic filing system and may cancel the filing user's user ID and password, after providing the filing user with notice, when the Commission determines that the filing user is abusing the electronic filing privileges. Filing users who are parties in an active Commission proceeding at the time of revocation and who have agreed to receive electronic service, shall serve the other parties to the proceeding with a notice of revocation.

(iii) *Abuse of electronic filing privileges.* Abuse of the Commission's electronic filing privileges includes knowingly permitting unauthorized use of a user ID and password and knowingly engaging in actions that interfere with the security of the electronic filing system, including the introduction of a virus or destructive programming into the electronic filing system.

[(d)] (c) *Supersession.* [Subsections] Subsection (a) [—(c) are] is identical to 1 Pa. Code § 33.2 (relating to form).

§ 1.35. Execution.

(a) *Signature.*

(1) *Paper filings.* A pleading, submittal or other document must be signed in ink by the party in interest, or by the party's attorney, as required by subsection (b), and show the office and mailing address of the party or attorney. An original hard copy must be signed, and other copies filed [shall] must conform thereto unless otherwise ordered by the Commission.

(2) *Electronic filings.* An electronic filing must include an electronic signature when it is filed on the Commission's electronic filing system by a filing user or authorized agent by means of a user ID and password. A filing must include:

(i) A notation on the first page that it has been electronically filed.

(ii) A signature block and the name, office and e-mail address of the filing user.

(3) *Limitation on user ID and password.* A filing user may not knowingly permit or cause to permit a user ID and password to be used by anyone other than an authorized agent of the filing user.

* * * * *

§ 1.36. Verification.

(a) Applications, petitions, formal complaints, motions and answers thereto containing an averment of fact not appearing of record in the action or containing a denial of fact must be personally verified by a party thereto or by an authorized officer or other authorized employee of the party if a corporation or association. Verification means a signed written statement of fact supported by oath or affirmation or made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities). When a verification is filed electronically, the verification shall be executed by a filing user, or if the

verification is signed by an individual who is not a filing user, a filing user may file the verification electronically by scanning the original verification and submitting it as an attachment to a filing. When a verification is signed by an individual who is not a filing user, the original verification shall be filed in paper form no later than 3 business days after the electronic filing is made. The docket number for the filing must be clearly indicated on the original verification. When verification is permitted, notarization is not necessary.

* * * * *

(c) When an affidavit is used, it must be notarized [and the]. A filing user may file an affidavit electronically by scanning the original affidavit and submitting it as an attachment to a filing. When an affidavit is filed electronically, the original affidavit shall be filed in paper form no later than 3 business days after the electronic filing is made. The docket number for the filing must be clearly indicated on the original affidavit. The affidavit form should comply substantially with the following:

* * * * *

§ 1.37. Number of copies.

(a) [*General rule*] *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:

[(b) *Exceptions.*]

(1) [*When the*] The document is an application or petition, one copy may be filed without exhibits.

(2) [*When the*] The document is a complaint or petition and more than one respondent is named, an additional copy of the complaint or petition [*must*] shall be filed for each additional respondent.

(3) [*When the*] The document is subject to a statutory requirement or is otherwise ordered or requested by the Commission, a different number of copies may be designated.

(4) [*When the*] The document is subject to § 5.409, § 5.502 or § 5.533 (relating to copies and form of documentary evidence; filing and service of briefs; and procedure to except to initial, tentative and recommended decisions), the filing must conform to the requirements in the applicable section.

(5) A filing, including attachments, exceeds 5 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 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 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.

* * * * *

Subchapter E. FEES

§ 1.42. Mode of payment of fees.

(a) Fees shall be paid by money order or check made payable to the Commonwealth of Pennsylvania, [or by any] by electronic payment using the Commission's electronic filing system or by another method currently acceptable to the Commission. [For payments other than money order or check, The Secretary's Bureau shall be contacted for prior approval before submitting payment in a form other than money order or check.] Payments by cash are not accepted without prior Secretary approval and remain at the risk of the sender.

* * * * *

Subchapter F. SERVICE OF DOCUMENTS

§ 1.51. Instructions for service, notice and protest.

(a) General rule. Upon receiving an application or petition, the Secretary will instruct the applicant or petitioner concerning the required service and public notice consistent with this section.

(b) Service list for parties. The Commission will make available to filing users on the electronic filing system a service list for each docket in which they are a party that contains the following provisions:

- (1) The names and addresses of parties.
(2) Indicates whether or not parties have agreed to receive electronic service.
(3) Provides the e-mail addresses of parties who have agreed to receive electronic service.

(c) Notification list for interested nonparties. When appropriate, the Commission will make available to filing users on the electronic filing system a notification list for each docket in which they are a participant that contains the names and addresses of interested nonparties, indicates whether or not interested nonparties have agreed to receive electronic notification and provides the e-mail addresses of interested nonparties who have agreed to receive electronic notification.

§ 1.53. Service by the Commission.

* * * * *

(b) Forms of service.

* * * * *

(3) Electronic. Service may be made electronically to filing users who have agreed to receive electronic service. Filing users will be sent an electronic mail notice informing them that a document was posted on the Commission's electronic filing system and providing a link to the document.

* * * * *

§ 1.54. Service by a party.

* * * * *

(b) Service may be made by one of the following methods:

* * * * *

(3) Electronic.

(i) Documents not filed with the Commission. Service may be made electronically [,] to those parties who have agreed to accept service in that manner.

(ii) Documents filed with the Commission. Service may be made electronically to filing users who have agreed to receive electronic service. Filing users who have agreed to receive electronic service shall be served with an electronic mail notice stating that a document was filed on the electronic filing system. The notice constitutes service.

(A) The electronic mail notice must contain the following provisions:

(I) The name of the filing user and the party on whose behalf the document was filed.

(II) The type of document.

(III) A brief description of the document.

(IV) A link to the document on the electronic filing system.

(V) The docket number when available.

(VI) An indication that the party is seeking expedited relief, if applicable.

(B) When a filing user becomes aware that the electronic mail notice was not transmitted successfully, the filing user shall resend the electronic mail notice or serve the document by another method authorized by this subpart.

(C) Documents [served electronically] of 250 pages or less, including attachments, need not be followed by service of a hard copy to [the parties] filing users who have agreed to receive electronic service. Filing users shall serve each other with a hard copy of documents that exceed 250 pages, including attachments, unless the parties otherwise agree. [if the parties have so agreed. A final version in hard copy shall be stamped on the date due for filing with the Secretary regardless of any agreement among the parties. Any subsequent corrected version not otherwise substantively altering the final version in hard copy may be filed upon approval of the administrative law judge.]

* * * * *

§ 1.57. Proof of service.

(a) Paper filings. A certificate of service in the form prescribed by § 1.58 (relating to form of certificate of service) [shall] must accompany and be attached to the original and all copies of pleadings, submittals or other documents filed with the Commission when service is required to be made by the parties.

(b) Electronic filings. Documents filed on the Commission's electronic filing system must contain a certificate of service stating that the document was filed electronically. The certificate of service must identify the manner in which service on each party was accomplished.

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

§ 1.58. Form of certificate of service.

(a) The form of certificate of service [shall] must be as follows:

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of § 1.54 (relating to service by a party).

(List names and addresses of parties served and manner in which each was served.)

Dated this ____ day of _____, 2____.

(Signature)

Counsel for

(b) A certificate of service accompanying an electronic filing must state that the document was filed electronically on the Commission's electronic filing system.

[Subsection] (c) Subsections (a) [supersedes] and (b) supersede 1 Pa. Code § 33.36 (relating to form of certificate of service).

CHAPTER 5. FORMAL PROCEEDINGS

Subchapter G. BRIEFS

§ 5.502. Filing and service of briefs.

(a) Service. Copies shall be served on the parties in accordance with § 1.59(b)(1) (relating to number of copies to be served).

(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). [Copies shall be served on the parties in accordance with § 1.59(b)(1) (relating to number of copies to be served).]

(2) Electronic filing.

(i) When the brief, including attachments, is 250 pages or less and does not exceed 5 megabytes, the filing user may file one electronic copy of the brief with the Commission and is not required to file a paper copy.

(ii) When the brief, including attachments, exceeds 5 megabytes but does not exceed 5 megabytes, the filing user may file one electronic copy of the brief and shall also file an original of the brief in paper form. The original shall be filed no later than 3 business days after the electronic filing is made.

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

[(b)] (c) Filing of briefs in nonrate proceedings.
* * * * *

[(c)] (d) Filing of briefs in rate proceedings.
* * * * *

[(d)] (e) Filing of amicus curiae briefs. * * *

[(e)] (f) Deadlines. * * *

[(f)] (g) Late-filed briefs. * * *

[(g)] (h) Supersession. Subsections (a)—[(e)](f) supersede 1 Pa. Code §§ 35.191 and 35.193 (relating to proceedings in which briefs are to be filed; and filing and service of briefs).

Subchapter H. EXCEPTIONS, APPEALS AND ORAL ARGUMENT

§ 5.533. Procedure to except to initial, tentative and recommended decisions.

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(d) An original and nine copies of the exceptions filed as paper documents shall be filed with the Secretary under § 1.4. Filing users may file electronically as provided by § 1.37(b) (relating to number of copies).

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