

TITLE 52

PUBLIC UTILITIES

PART I. Public Utility Commission

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Subpart A. GENERAL PROVISIONS

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Cross References

This subpart cited in 52 Pa. Code § 63.324 (relating to commission approval of a general rule transaction subject to 66 Pa.C.S. §§ 1102(a)(3) and (1103)).

CHAPTER 1. RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE

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Cross References

This chapter cited in 52 Pa. Code § 1.32 (relating to filing specifications); 52 Pa. Code § 5.103 (relating to motions); 52 Pa. Code § 5.231 (relating to offers of settlement); 52 Pa. Code § 5.233 (relating to refusal to make admissions or stipulations); 52 Pa. Code § 5.409 (relating to copies and form of documentary evidence); 52 Pa. Code § 54.184 (relating to default service provider obligations); 52 Pa. Code § 54.185 (relating to default service programs and periods of service); 52 Pa. Code § 56.174 (relating to ability to pay proceedings); 52 Pa. Code § 56.404 (relating to ability to pay proceedings); 52 Pa. Code § 57.39 (relating to informal consultation and Commission proceedings); and 52 Pa. Code § 77.5 (relating to resolution of disputes).

Subchapter A. GENERAL PROVISIONS

- Sec.
- 1.1. Scope of subpart.
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- 1.8. Definitions.
- 1.9. [Reserved].

§ 1.1. Scope of subpart.

- (a) This subpart governs the practice and procedure before the Commission.
- (b) This subpart is intended to supersede the applicability of 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) to practice and procedure before the Commission.

Authority

The provisions of this § 1.1 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.1 amended October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414. Immediately preceding text appears at serial page (222423).

§ 1.2. Liberal construction.

- (a) This subpart shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which it is applicable. The Commission or presiding officer at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties.
- (b) The singular includes the plural, and the plural, the singular. Words used in the masculine gender include the feminine and neuter. Words used in the past or present tense include the future.
- (c) The Commission or presiding officer at any stage of an action or proceeding may waive a requirement of this subpart when necessary or appropriate, if the waiver does not adversely affect a substantive right of a party.
- (d) These liberal construction provisions apply with particularity in proceedings involving pro se litigants.
- (e) Subsection (a) supersedes 1 Pa. Code § 31.2 (relating to liberal construction).

Authority

The provisions of this § 1.2 amended under the Public Utility Code, 66 Pa.C.S. §§ 309—311, 315, 331—335, 501, 504—506, 701—703, 1101—1103, 1301 and 1501.

Source

The provisions of this § 1.2 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended December 3, 1988, effective January 31, 1989, 18 Pa.B. 5451; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097. Immediately preceding text appears at serial pages (225547) to (225548).

Notes of Decisions*Appeals*

The Pennsylvania Public Utility Commission could properly entertain exceptions to a decision of an administrative law judge filed 1 day late absent a showing of prejudice by the company. *AT & T Communication of Pennsylvania v. Pennsylvania Public Utility Commission*, 568 A.2d 1362 (Pa. Cmwlth. 1990).

Discretion

The administrative law judge's discretion was not abused by accepting and considering the utility's initial brief. Before the administrative law judge's initial decision, the township did not move to strike the utility's initial brief nor file a reply brief to respond to the utility's brief. Therefore, because the Public Utility Commission's decision was amply supported by the evidence in the record, the judge's acceptance and consideration of the utility's initial brief did not affect the township's substantive rights asserted in the complaint. *Springfield Township v. Pennsylvania Public Utility Commission*, 676 A.2d 304 (Pa. Cmwlth. 1996).

Jurisdiction

It is clear that the remedial and enforcement powers vested in the Public Utility Commission by the Utility Code were designed to allow the Commission to enforce its orders and regulations, but not to empower the Commission to award damages or to litigate a private action for damages on behalf of a complainant. *Poorbaugh v. Pennsylvania Public Utility Commission*, 666 A.2d 744 (Pa. Cmwlth. 1995); appeal denied 698 A.2d 69 (Pa. 1995).

Where the essence of plaintiff's underlying claim is that the utility service failed to prevent an overvoltage from its power lines which permitted a dangerous amount of electricity to surge into plaintiff's barn following a power outage and which resulted in a fire that destroyed the barn, the claim belonged in the judicial system and not before the Public Utility Commission. *Poorbaugh v. Pennsylvania Public Utility Commission*, 666 A.2d 744 (Pa. Cmwlth. 1995).

Procedure

There was no abuse of discretion when the administrative law judge accepted and considered a party's initial brief even though it was filed in violation of the briefing order. *Springfield Township v. Pennsylvania Public Utility Commission*, 676 A.2d 304 (Pa. Cmwlth. 1996).

The Pennsylvania Public Utility Commission has authority to waive procedural defects when they do not affect the substantive rights of the parties. *Info Connections, Inc. v. Pennsylvania Public Utility Commission*, 630 A.2d 498 (Pa. Cmwlth. 1993).

§ 1.3. Information and special instructions.

(a) Information as to procedures under this subpart, and instructions supplementing this subpart in special instances, will be furnished upon application to:

- (1) By first-class mail:
Secretary
Pennsylvania Public Utility Commission
Post Office Box 3265
Harrisburg, Pennsylvania 17105-3265
 - (2) In person or by mail other than first-class:
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania 17120
- (b) Subsection (a) is identical to 1 Pa. Code § 31.4 (relating to information and special instructions).

Authority

The provisions of this § 1.3 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.3 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097. Immediately preceding text appears at serial pages (225548) to (225549).

§ 1.4. Filing generally.

- (a) Submittals, pleadings and other documents filed with the Commission should be submitted in one of the following manners:
- (1) By first-class mail:
Secretary
Pennsylvania Public Utility Commission
Post Office Box 3265
Harrisburg, Pennsylvania 17105-3265
 - (2) In person or by mail other than first-class:
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania 17120
 - (3) Electronically on the Commission’s electronic filing system if the document is a qualified document.
- (b) Submittals, pleadings and other documents filed with the Commission should clearly designate the docket number or similar identifying symbols, if any, employed by the Commission, and should set forth a short title. The identity of the individual making the submission, including name, mailing address and sta-

tus (for example, party, attorney for a party, and the like) must appear on the document, along with any special instructions for communication by other than first class mail.

(c) Submittals and pleadings, including documents filed under Chapter 5 (relating to formal proceedings) must also comply with Subchapter D (relating to documentary filings).

(d) In a proceeding when, upon inspection, the Commission is of the opinion that a submittal or pleading tendered for filing does not comply with this subpart or this title or, if it is an application or similar document, does not sufficiently set forth required material or is otherwise insufficient, the Commission may decline to accept the document for filing and may return it unfiled, or the Commission may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

(e) The Commission may order redundant, immaterial, impertinent or scandalous matter stricken from documents filed with it.

(f) Subsections (a)—(e) are identical to 1 Pa. Code § 31.5 (relating to communications and filings generally).

Authority

The provisions of this § 1.4 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.4 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097; amended September 26, 2008, effective September 27, 2008, 38 Pa.B. 5303. Immediately preceding text appears at serial pages (319035) to (319036).

Cross References

This section cited in 52 Pa. Code § 1.91 (relating to applications for waiver of formal requirements); 52 Pa. Code § 5.502 (relating to filing and service of briefs); and 52 Pa. Code § 5.533 (relating to procedure to except to initial, tentative and recommended decisions).

§ 1.5. Amendment to rules.

(a) Persons may file an application under §§ 5.1 and 5.11 (relating to pleadings allowed; and applications generally) requesting a general and permanent change in this subpart.

(b) Subsection (a) supersedes 1 Pa. Code § 31.6 (relating to amendments to rules).

Authority

The provisions of this § 1.5 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.5 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414. Immediately preceding text appears at serial pages (222425) to (222426).

§ 1.6. Commission office hours.

Unless otherwise directed by the Governor, the Commission offices will be open from 8 a.m. until 4:30 p.m. on business days except Saturdays, Sundays and legal holidays.

Source

The provisions of this § 1.6 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819.

§ 1.7. Sessions of the Commission.

Public meetings of the Commission ordinarily will be held in its offices in the Commonwealth Keystone Building, Harrisburg. Schedules for public meetings can be obtained from the Commission Secretary or viewed on the Commission's website.

Authority

The provisions of this § 1.7 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.7 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097. Immediately preceding text appears at serial page (225550).

§ 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:

Act—66 Pa.C.S. §§ 101—3315 (relating to the Public Utility Code).

Adjudication—An order, decree, decision, determination or ruling by the Commission affecting personal or property rights, privileges, immunities, duties, liabilities or obligations of the parties to the proceeding in which the adjudication is made.

Applicants—In proceedings involving applications for permission or authorization which the Commission may give under statutory or other authority delegated to it, the parties on whose behalf the applications are made.

Adversarial proceeding—A proceeding initiated by a person to seek authority, approvals, tariff changes, enforcement, fines, remedies or other relief from the Commission which is contested by one or more other persons and which will be decided on the basis of a formal record.

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.

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.

Electronic mail—A means of dispatching or receiving a submittal in relation to a Commission matter through electronic means.

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.

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.

Formal complaint—A verified written document filed with the Commission under 66 Pa.C.S. § 701 (relating to complaints) requesting a legal proceeding before a presiding officer or a mediator.

Formal investigation—A matter initiated by the Commission or Commission staff that results in a formal record.

Formal proceeding—A matter intended to produce a formal record.

Formal record—The pleadings and submittals in a matter or proceeding, a notice or Commission order initiating the matter or proceeding, and if a hearing is held, the following: the designation of the presiding officer, transcript of hearing, exhibits received in evidence, offers of proof, motions, stipulations, subpoenas, proofs of service, references to the Commission and determinations made by the Commission thereon, certifications to the Commission, and anything else upon which action of the presiding officer or the Commission may be based.

Friendly cross-examination—Cross-examination of a witness by a party who does not disagree with the witness' position on an issue.

Individual—A natural person.

Informal complaint—A document or communication to the Commission seeking action on a matter that lacks the legal or other requirements of a formal complaint under 66 Pa.C.S. § 701 and does not involve a legal proceeding before a presiding officer or mediator.

Informal investigation—A matter initiated by the Commission staff that may result in a formal complaint, a settlement or other resolution of the matter or termination by letter.

Informal proceeding—A matter not intended to produce a formal record.

Initial decision—A decision by a presiding officer which becomes final unless timely exceptions are filed by a participant, the Commission requests review upon its own motion or as otherwise established by the act.

Intervenor—A person intervening or petitioning to intervene as a party as provided by §§ 5.71—5.76 (relating to intervention).

Mediation—An informal, nonadjudicative Commission process through which a Commission-designated mediator assists the parties in an attempt to reach a mutually acceptable resolution.

Mediator—An individual designated to conduct a mediation.

Nonadversarial proceeding—A proceeding initiated by a person which is not contested or a proceeding initiated by the Commission or at the request of a person to develop regulations, policies, procedures, technical rules or interpretations of law.

Notarial officer—An officer authorized under § 5.346 (relating to persons before whom depositions may be taken) to take depositions for use before the Commission or presiding officer.

PDF—Portable Document Format.

Party—A person who appears in a proceeding before the Commission.

Person—Except as otherwise provided in this subpart or in the act, the term includes individuals, corporations, partnerships, associations, joint ventures, other business organizations, trusts, trustees, legal representatives, receivers, agencies, governmental entities, municipalities, municipal corporations or other political subdivisions.

Petitioners—Persons seeking relief, not otherwise designated in this section.

Pleading—An application, complaint, petition, answer, motion, preliminary objection, protest, reply, order to show cause, new matter and reply to new matter or other similar document filed in a formal proceeding.

Presiding officer—A person designated by the Commission to preside over a matter.

Principal—A party with power to authorize its counsel to enter into stipulations or settlement agreements.

Proof of service—A certificate of service which complies with §§ 1.57 and 1.58 (relating to proof of service; and form of certificate of service).

Protestants—Persons objecting on the ground of private or public interest to the approval of an application or other matter which the Commission may have under consideration.

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 web site at <http://www.puc.state.pa.us/> and that complies with the filing requirements and restrictions in § 1.32(b) (relating to filing specifications).

Rate proceeding—An on the record proceeding brought by or before the Commission, the purpose of which is to determine the justness and reasonable-

ness of a proposed or present rate for utility service, including, but not limited to, proceedings initiated under sections 1307, 1308, 1310 and 1312 of the act.

Recommended decision—An opinion and order submitted for the approval of the Commission by the presiding officer.

Respondents—Persons subject to a statute or other delegated authority administered by the Commission, who are required to respond to an order or notice issued by the Commission instituting a proceeding or investigation on its own initiative or otherwise.

Secretary—The Secretary of the Commission, who is the Commission officer with whom pleadings and other documents are filed and by whom official records are kept.

Staff—The Commission's Office of Trial Staff prosecutor or Law Bureau staff counsel and other Commission employees participating in a proceeding before the agency.

Statutory advocate—The Office of Trial Staff, the Office of Consumer Advocate and the Office of Small Business Advocate.

Submittal—An application, amendment, exhibit or similar document involving matters filed in an adversarial or nonadversarial proceeding.

Telefacsimile transmittal—A means of dispatching or receiving a submittal in a Commission matter through electronic means that prints a hard copy facsimile of a document in a legible form at the recipient's machine.

Tentative decision—An order of the Commission which becomes final unless exceptions are filed by a party within the time period specified by statute or as set forth in the order.

Trade secret—A private formula, pattern, device, cost study or compilation of information which is used in a business and which, if disclosed, would provide the opportunity to obtain an advantage over competitors who do not know or use it.

Verification—When used in reference to a written statement of fact by the signer, means supported by oath or affirmation or made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

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

(b) Subsection (a) supersedes 1 Pa. Code § 31.3 (relating to definitions).

Authority

The provisions of this § 1.8 amended under the Public Utility Code, 66 Pa.C.S. §§ 309—311, 315, 331—335, 501, 504—506, 523, 701—703, 1101—1103, 1301, 1501 and 1504.

Source

The provisions of this § 1.8 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended December 2, 1988, effective January 3, 1989, 18 Pa.B. 5451; amended January 24, 1997, effective January 25, 1997, 25 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097; amended September 26, 2008, effective September 27, 2008, 38 Pa.B. 5303; amended September 20, 2013, effective September 21, 2013, 43 Pa.B. 5593. Immediately preceding text appears at serial pages (338435) to (338438) and (351339).

Cross References

This section cited in 52 Pa. Code § 63.322 (relating to definitions).

Notes of Decisions

Protestant

Gas marketing company had standing to file a formal complaint against utility on behalf of its 150 customers who were also customers of the utility, alleging that the utility's proposed MSSS rate would adversely affect the customers' operating costs and would permit impermissible discrimination against some of those customers in violation of section 1304 of the Public Utility Code. *Interstate Gas Marketing, Inc. v. Pennsylvania Public Utility Commission*, 679 A.2d 1349 (Pa. Cmwlth. 1996); reargument denied (1996).

§ 1.9. [Reserved].

Source

The provisions of this § 1.9 adopted February 13, 1987, effective February 14, 1987, 17 Pa.B. 719; reserved January 24, 1997, effective January 25, 1997, 27 Pa.B. 414. Immediately preceding text appears at serial page (222429).

Subchapter B. TIME

- Sec.
- 1.11. Date of filing.
 - 1.12. Computation of time.
 - 1.13. Issuance of Commission orders.
 - 1.14. Effective dates of Commission orders.
 - 1.15. Extensions of time and continuances.
 - 1.16. Issuance of decisions by presiding officers.

§ 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:

- (1) On the date actually received in the office of the Secretary.
- (2) On the date deposited with an overnight express delivery service as shown on the express delivery receipt attached to or included within the envelope containing the document.
- (3) On the date deposited in the United States Mail as shown by the United States Postal Service stamp on the envelope or noted on a United States Postal Service Form 3817 certificate of mailing. A mailing envelope stamped by an in-house postage meter is insufficient proof of the date of mailing.
- (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 in the Eastern Time Zone (United States of America) 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.

(b) Failure to include a legible delivery receipt with a document submitted in accordance with the methods specified in subsection (a)(2) or (3) may result in an untimely filing.

(c) A document transmitted by telefacsimile to the Commission will not be accepted for filing within the meaning of this section.

(d) Subsection (a) supersedes 1 Pa. Code § 31.11 (relating to timely filing required).

Authority

The provisions of this § 1.11 amended under the Public Utility Code, 66 Pa.C.S. §§ 309—311, 315, 331—335, 501, 504—506, 701—703, 1101—1103, 1301 and 1501.

Source

The provisions of this § 1.11 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended December 2, 1988, effective January 3, 1989, 18 Pa.B. 5451; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097; amended September 26, 2008, effective September 27, 2008, 38 Pa.B. 5303. Immediately preceding text appears at serial page (319041).

Cross References

This section cited in 52 Pa. Code § 1.36 (relating to verification); 52 Pa. Code § 1.37 (relating to number of copies); 52 Pa. Code § 1.81 (relating to amendments); 52 Pa. Code § 5.502 (relating to filing and service of briefs); 52 Pa. Code § 5.533 (relating to procedure to except to initial, tentative and recommended decisions); and 52 Pa. Code § 5.535 (relating to replies).

§ 1.12. Computation of time.

(a) Except as otherwise provided by statute, in computing a period of time prescribed or allowed by this title or by statute, the day of the act, event or default after which the designated period of time begins to run is not included. The last day of the period is included, unless it is Saturday, Sunday or a legal holiday in this Commonwealth, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or holiday. A part-day holiday shall be considered as a holiday. Intermediate Saturdays, Sundays and legal holidays shall be included in the computation.

(b) Except as otherwise provided by statute, in computing a period of time prescribed or allowed by this title or by statute which is measured by counting a specified number of days backward from a scheduled future act, event or default, the day of the scheduled future act, event or default is not included. The day on which the prescribed or allowed action is to occur shall be included, unless it is a Saturday, Sunday or a legal holiday in this Commonwealth, in which event the day of the prescribed or allowed action shall run until the next preceding day which is neither a Saturday, Sunday or holiday. A part-day holiday shall be considered as a holiday. Intermediate Saturdays, Sundays and legal holidays are included in the computation.

(c) Subsection (a) supersedes 1 Pa. Code § 31.12 (relating to computation of time).

Authority

The provisions of this § 1.12 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.12 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414. Immediately preceding text appears at serial page (215908).

§ 1.13. Issuance of Commission orders.

(a) In computing a period of time involving the date of the issuance of an order by the Commission, the day of issuance of an order will be the date the Secretary enters the order. An order will not be made public prior to its entry except where, in the Commission's judgment, the public interest so requires. The date of entry of an order may or may not be the day of its adoption by the Commission. The Secretary will clearly indicate on each order the date of its adoption by the Commission and the date of its entry.

(b) At the time a decision of a presiding officer becomes effective as an adjudication of the Commission in the absence of Commission review as provided for in section 332(h) of the act (relating to procedures in general) the Secretary will issue and serve upon the parties of record an appropriate notice of the date the adjudication became effective as a Commission order.

(c) The date of entry of an order which is subject to review by Commonwealth Court is governed by Pa.R.A.P. No. 108. The date of issuance of any other order shall be deemed to be the date of entry for the purposes of computing the time for appeal under an applicable statute relating to judicial review of Commission action.

(d) Subsections (a) and (b) are identical to 1 Pa. Code § 31.13 (relating to issuance of agency orders).

Authority

The provisions of this § 1.13 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.13 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414. Immediately preceding text appears at serial pages (215908) to (215909).

§ 1.14. Effective dates of Commission orders.

(a) An order of the Commission promulgating regulations shall be effective upon publication in the *Pennsylvania Bulletin* unless otherwise specially provided in the order.

(b) Except as provided in subsection (a), an order of the Commission shall be effective as of the date of entry unless otherwise specially provided in the order.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.14 (relating to effective dates of agency orders).

Authority

The provisions of this § 1.14 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.14 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414. Immediately preceding text appears at serial page (215909).

§ 1.15. Extensions of time and continuances.

(a) Extensions of time shall be governed by the following:

(1) Except as otherwise provided by statute, whenever under this title or by order of the Commission, or notice given thereunder, an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may, by the Commission, the presiding officer or other authorized person, for good cause be extended upon motion made before expiration of the period originally prescribed or as previously extended. Upon motion made after the expiration of the specified period, the act may be permitted to be done where reasonable grounds are shown for the failure to act.

(2) Requests for the extension of time in which to file briefs shall be filed at least 5 days before the time fixed for filing the briefs unless the presiding officer, for good cause shown, allows a shorter time.

(b) Except as otherwise provided by statute, requests for continuance of hearings or for extension of time in which to perform an act required or allowed to be done at or within a specified time by this title or by order of the Commission or the presiding officer, shall be by motion in writing, timely filed with the Commission, stating the facts on which the application rests, except that during the course of a proceeding, the requests may be made by oral motion in the hearing before the Commission or the presiding officer. Only for good cause shown will requests for continuance be considered. The requests for a continuance should be filed at least 5 days prior to the hearing date.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.15 (relating to extensions of time).

Authority

The provisions of this § 1.15 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.15 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097. Immediately preceding text appears at serial pages (225556) to (225557).

Cross References

This section cited in 52 Pa. Code § 5.92 (relating to amendments to conform to the evidence); and 52 Pa. Code § 5.502 (relating to filing and service briefs).

§ 1.16. Issuance of decisions by presiding officers.

(a) The date of the issuance of a decision by a presiding officer shall be the date on which the 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.

Authority

The provisions of this § 1.16 amended under the Public Utility Code, 66 Pa.C.S. §§ 309—311, 315, 331—335, 501, 504—506, 701—703, 1101—1103, 1301 and 1501.

Source

The provisions of this § 1.16 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended December 2, 1988, effective January 3, 1989, 18 Pa.B. 5451; amended September 26, 2008, effective September 27, 2008, 38 Pa.B. 5303. Immediately preceding text appears at serial page (319044).

Subchapter C. REPRESENTATION BEFORE THE COMMISSION

- Sec.
- 1.21. Appearance.
- 1.22. Appearance by attorney or certified legal intern.
- 1.23. Other representation prohibited at hearings.
- 1.24. Notice of appearance or withdrawal.
- 1.25. Form of notice of appearance.
- 1.26. Contemptuous conduct.
- 1.27. Suspension and disbarment.

§ 1.21. Appearance.

(a) Individuals may represent themselves.

(b) Except as provided in subsection (a), persons in adversarial proceedings shall be represented in accordance with § 1.22 (relating to appearance by attorneys and legal intern). For purposes of this section, any request for a general rate increase under § 1307(f) or § 1308(d) of the act (relating to sliding scale of rates; adjustments; and voluntary changes in rates) shall be considered to be an adversarial proceeding.

(c) In nonadversarial proceedings, persons may be represented in the following manner:

(1) A partner may represent the partnership.

(2) A bona fide officer of a corporation, trust or association may represent the corporation, trust or association.

(3) An officer or employee of an agency, political subdivision or government entity may represent the agency, political subdivision or government entity.

(d) In informal proceedings brought under Chapters 56 and 64 (relating to standards and billing practices for residential utility service; and standards and billing practices for residential telephone service) and Chapter 14 of the act (relating to standards and billing practices for residential utility service; and standards and billing practices for residential telephone service), parties may be represented by one of the following:

(1) A paralegal working under the direct supervision of an attorney admitted to the Pennsylvania Bar.

(2) An appropriate individual including a family member or other individual or entity with oral or written authority.

(e) Subsection (a) supersedes 1 Pa. Code § 31.21 (relating to appearance in person).

Authority

The provisions of this § 1.21 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.21 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097. Immediately preceding text appears at serial page (225558).

Cross References

This section cited in 52 Pa. Code § 1.22 (relating to appearance by attorney or certified legal intern); 52 Pa. Code § 1.23 (relating to other representation prohibited at hearings); and 52 Pa. Code § 63.322 (relating to definitions).

§ 1.22. Appearance by attorney or certified legal intern.

(a) Subject to § 1.21(a) (relating to appearance), an attorney at law admitted to practice before the Supreme Court of Pennsylvania shall represent persons in Commission proceedings.

(b) An attorney not licensed in this Commonwealth may appear before the Commission in accordance with the Pennsylvania Bar Admission Rules.

(c) A law student meeting the requirements of Pa.B.A.R. No. 321 (relating to requirements for formal participation in legal matters by law students) may appear in a Commission proceeding consistent with Pa.B.A.R. No. 322 (relating to authorized activities of certified legal interns).

(d) Subsection (a) supersedes 1 Pa. Code § 31.22 (relating to appearance by attorney).

Authority

The provisions of this § 1.22 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.22 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097. Immediately preceding text appears at serial page (225559).

Cross References

This section cited in 52 Pa. Code § 1.21 (relating to appearance); 52 Pa. Code § 1.23 (relating to other representation prohibited at hearings); and 52 Pa. Code § 63.322 (relating to definitions).

§ 1.23. Other representation prohibited at hearings.

(a) Persons may not be represented at a hearing before the Commission or a presiding officer except as stated in § 1.21 or § 1.22 (relating to appearance; and appearance by attorney or certified legal intern).

(b) Subsection (a) supersedes 1 Pa. Code §§ 31.23 (relating to other representation prohibited at hearings).

Authority

The provisions of this § 1.23 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.23 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097. Immediately preceding text appears at serial pages (225559) to (225560).

§ 1.24. Notice of appearance or withdrawal.

(a) *Individuals.* An individual appearing without legal representation before the Commission or a presiding officer shall file with the Secretary an address for service of a notice or other written communication. A change in address which occurs during the course of the proceeding shall be reported to the Secretary promptly.

(b) *Attorneys.*

(1) *Appearance by initial pleading.* An attorney who signs an initial pleading in a representative capacity shall be considered to have entered an appearance in that proceeding.

(2) *Appearance in all other instances.* An attorney shall file with the Secretary a written notice of appearance.

(i) *Content of notice.* Initial pleadings, entries of appearance and notices of withdrawal must include:

(A) The attorney's name, mailing address and electronic mailing address, if available.

(B) Pennsylvania attorney identification number or, if not licensed in this Commonwealth, identification of the jurisdictions in which the attorney is licensed to practice law.

(C) Telephone number and telefacsimile number, if applicable.

(D) The name and address of the person represented.

(ii) *Filing.*

(A) *Appearance.* The notice of appearance shall be served on the parties to the proceeding, and a certificate of service shall be filed with the Secretary.

(B) *Change in address.* A change in address which occurs during the course of the proceeding shall be reported to the Secretary and the parties promptly.

(3) *Withdrawal.* An attorney may withdraw an appearance by filing a written notice of withdrawal with the Secretary. The notice shall be served on the parties and the presiding officer, if one has been designated.

(c) *Supersession.* Subsections (a)—(e) supersede 1 Pa. Code § 31.24 (relating to notice of appearance).

Authority

The provisions of this § 1.24 amended under the Public Utility Code, 66 Pa.C.S. §§ 309—311, 315, 331—335, 501, 504—506, 701—703, 1101—1103, 1301 and 1501.

Source

The provisions of this § 1.24 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended December 2, 1988, effective January 3, 1989, 18 Pa.B. 5451; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097. Immediately preceding text appears at serial page (225560).

Cross References

This section cited in 52 Pa. Code § 1.55 (relating to service on attorneys).

§ 1.25. Form of notice of appearance.

(a) The form of notice of appearance is as follows:

COMMONWEALTH OF PENNSYLVANIA
BEFORE THE PENNSYLVANIA PUBLIC
UTILITY COMMISSION

In the Matter of:

[File, Docket or other identifying No.:]

NOTICE OF APPEARANCE

Please enter my appearance in the above-designated matter on behalf of .

I am authorized to accept service on behalf of said party in this matter

[CHECK ONE]

On the basis of this notice, I request a copy of each document hereafter issued by the Commission in this matter.

I am already receiving or have access to a copy of each document issued by the Commission in this matter (alone, or in a consolidated proceeding) and do not on the basis of this notice require an additional copy.

Signature

Name (Printed)

P. O. address

City, state and zip code

Telephone Number
(including area code)

Telefacsimile Number
Including Area Code

Pennsylvania Attorney I.D. No./
Other Jurisdiction(s) Admitted

Electronic Mail Address
(Optional)

(b) Subsection (a) is identical to 1 Pa. Code § 31.25 (relating to form of notice of appearance).

Authority

The provisions of this § 1.25 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.25 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097. Immediately preceding text appears at serial pages (225560) to (225561).

§ 1.26. Contemptuous conduct.

(a) Contemptuous conduct at a hearing before the Commission or a presiding officer shall be grounds for exclusion from the hearing and for summary suspension without a hearing for the duration of the hearing.

(b) Subsection (a) is identical to 1 Pa. Code § 31.27 (relating to contemptuous conduct).

Source

The provisions of this § 1.26 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819.

§ 1.27. Suspension and disbarment.

(a) The Commission may deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to a person who is found by the Commission, after notice and opportunity for hearing in the matter, to have done one or more of the following:

- (1) Lacked the requisite qualifications to represent others.
- (2) Lacked the requisite technical education, training or experience for a particular project or type of project submitted for Commission approval.
- (3) Engaged in unethical, contemptuous or improper conduct before the Commission.
- (4) Repeatedly failed to follow Commission or presiding officer directives.

(b) For the purpose of subsection (a), practicing before the Commission shall include:

- (1) Transacting business with the Commission.
- (2) The preparation of a statement, opinion or other paper by an attorney, accountant, engineer or other expert, filed with the Commission in a pleading, submittal or other document with the consent of the attorney, accountant, engineer or other expert.
- (3) Appearances at a hearing before the Commission or a presiding officer.

(c) Subsections (a) and (b) are identical to 1 Pa. Code § 31.28 (relating to suspension and disbarment).

Authority

The provisions of this § 1.27 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.27 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414. Immediately preceding text appears at serial pages (215913) to (215914).

Cross References

This section cited in 52 Pa. Code § 5.485 (relating to manner of conduct of hearings).

Subchapter D. DOCUMENTARY FILINGS

Sec.

- 1.31. Requirements for documentary filings.
- 1.32. Filing specifications.
- 1.33. Incorporation by reference.
- 1.34. Single pleading or submittal covering more than one matter.
- 1.35. Execution.
- 1.36. Verification.
- 1.37. Number of copies.
- 1.38. Rejection of filings.

Cross References

This subchapter cited in 52 Pa. Code § 1.4 (relating to filing generally); and 52 Pa. Code § 5.409 (relating to copies and form of documentary evidence).

§ 1.31. Requirements for documentary filings.

- (a) *Form.* Pleadings must be divided into numbered paragraphs.
- (b) *Attachments.* Copies of documents relied upon in the pleadings must be identified and attached. Copies of reported court decisions, writings or orders already of record with the Commission need not be attached to the pleading if reference by docket number is made to the proceeding in which they were filed in accordance with § 1.33 (referring to incorporation by reference).
- (c) *Identifying information.* Documents filed with the Commission in a proceeding must clearly contain the following information:
 - (1) The docket number or similar identifying symbols, if any.
 - (2) The title or caption of the proceeding before the Commission.
 - (3) Within the title of the document, the name of the person on whose behalf the filing is made. If more than one person is involved, only a single name is necessary.
- (d) *Supersession.* Subsections (a)—(c) supersede 1 Pa. Code § 33.1 (relating to title).

Authority

The provisions of this § 1.31 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.31 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097. Immediately preceding text appears at serial page (263599).

Notes of Decisions*Form of Filings*

A letter from a corporate officer requesting reinstatement of Certificate of Public Convenience was properly considered although not in formal compliance with regulations. *P-I-E Nationwide, Inc. v. Pennsylvania Public Utility Commission*, 567 A.2d 1124 (Pa. Cmwlth. 1989).

Cross References

This section cited in 52 Pa. Code § 3.501 (relating to certificate of public convenience as a water supplier or wastewater collection, treatment or disposal provider); 52 Pa. Code § 3.601 (relating to general); 52 Pa. Code § 56.173 (relating to review from informal complaint decisions of the Bureau of Consumer Services); 52 Pa. Code § 56.403 (relating to review from informal complaint decisions of the Bureau of Consumer Services); and 52 Pa. Code § 57.72 (relating to form and content of application).

§ 1.32. 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, 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 at least 1 inch wide and other margins at least 1 inch. The impression 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 shall be accepted as typewritten, if copies are clearly legible.

(2) *Printed.* Printed documents must be 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 at least 1 inch wide, and with double-lead text and single-lead, indented quotations.

(3) *Bound.* Pleadings, submittals and other documents, other than correspondence, 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 web site at <http://www.puc.state.pa.us/>. 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. 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 adminis-

trative 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 margins, spacing and type size.

(ii) Be a qualified document that is listed in the categories of documents that the Commission, after notice and opportunity to be heard, has designated as being permitted to be filed electronically.

(iii) Be in PDF format so that the document, and when feasible, its attachments, shall be capable of being printed and copied without restriction, and may not require a password to view the contents.

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

(3) *Size restriction.* A filing, including attachments, that exceeds 10 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) and sensitive and confidential information protected as an exemption to public disclosure under section 708(b) of the Right-to-Know Law (65 P. S. § 67.708(b)) regarding exceptions for public records may not be filed electronically. Filings containing confidential information shall be filed in paper form. Redacted, public versions of those 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) *Confirmation of receipt.* The electronic filing system will generate a notice confirming the successful receipt of a filing made electronically. The notice will contain the date and time that the filing was received and a link to the filing.

(6) *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. The notice must contain the user's name, user ID, address and e-mail addresses, the name of the party that the user represents, the names of all authorized users on the same account, the effective date of the revocation, and all Commission proceedings in which the user is a party or participant, or provides representation. Upon receipt 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 revo-

cation and file with the Secretary a certificate of service consistent with §§ 1.57 and 1.58 (relating to proof of service; and form of service) memorializing this service.

(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 whose user ID and password have been revoked and 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 and file with the Secretary a certificate of service consistent with §§ 1.57 and 1.58 memorializing this service.

(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.

(c) *Supersession.* Subsection (a) is identical to 1 Pa. Code § 33.2 (relating to form).

Authority

The provisions of this § 1.32 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504, 523, 1301, 1501 and 1504.

Source

The provisions of this § 1.32 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended September 26, 2008, effective September 27, 2008, 38 Pa.B. 5303; amended January 10, 2014, effective January 11, 2014, 44 Pa.B. 249. Immediately preceding text appears at serial pages (358918) to (358920).

Cross References

This section cited in 52 Pa. Code § 1.8 (relating to definitions); 52 Pa. Code § 3.501 (relating to certificate of public convenience as a water supplier or wastewater collection, treatment or disposal provider); 52 Pa. Code § 3.601 (relating to general); 52 Pa. Code § 5.412a (relating to electronic submission of pre-served testimony); 52 Pa. Code § 56.173 (relating to review from informal complaint decisions of the Bureau of Consumer Services); and 52 Pa. Code § 56.403 (relating to review from informal complaint decisions of the Bureau of Consumer Services).

§ 1.33. Incorporation by reference.

(a) Documents on file with the Commission may be incorporated by reference into a subsequent pleading, submittal or other document. A document may be so incorporated only by reference to the specific document and to the prior filing and docket number at which it was filed.

(b) Documents on file with the Commission for more than 20 years may not be incorporated by reference in a current document unless the person filing the current document first ascertains that the earlier document continues to be readily available in the active records of the Commission.

Authority

The provisions of this § 1.33 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.33 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097. Immediately preceding text appears at serial page (263600).

Cross References

This section cited in 52 Pa. Code § 1.31 (relating to requirements for documentary filings); 52 Pa. Code § 56.173 (relating to review from informal complaint decisions of the Bureau of Consumer Services); and 52 Pa. Code § 56.403 (relating to review from informal complaint decisions of the Bureau of Consumer Services).

§ 1.34. Single pleading or submittal covering more than one matter.

(a) Except as otherwise provided under this chapter and Chapter 5 (relating to formal proceedings), a single pleading or submittal may be accepted for filing with respect to a particular transaction and one or more related transactions and shall be deemed to be a single filing for purposes of the computation of fees under § 1.43 (relating to schedule of fees payable to the Commission).

(b) If, upon review, the Commission determines that the transactions are not closely related or otherwise properly joined, the Commission will direct that the single pleading be refiled as two or more separate pleadings each subject to a separate filing fee.

(c) Subsection (a) supersedes 1 Pa. Code § 33.4 (relating to single pleading or submittal covering more than one matter).

Authority

The provisions of this § 1.34 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.34 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414. Immediately preceding text appears at serial page (215916).

Cross References

This section cited in 52 Pa. Code § 56.173 (relating to review from informal complaint decisions of the Bureau of Consumer Services); and 52 Pa. Code § 56.403 (relating to review from informal complaint decisions of the Bureau of Consumer Services).

§ 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 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.* Each filing user may determine the number of authorized agents who may use the filing user's 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.

(b) *Signatory.*

(1) A pleading, submittal or other document filed with the Commission must be signed by one of the following:

- (i) The person filing the documents, and severally if there is more than one person so filing.
- (ii) An officer if it is a corporation, trust, association or other organized group.
- (iii) An officer or employee thereof if it is another agency, a political subdivision, or other governmental authority, agency or instrumentality.
- (iv) An attorney having authority with respect thereto.

(2) A document filed by a corporation, trust, association or other organized group, may be required to be supplemented by appropriate evidence of the authority of the officer or attorney signing the documents.

(c) *Effect.*

(1) The signature of the individual signing a document filed with the Commission constitutes a certificate by the individual that:

- (i) The individual has read the document being signed and filed, and knows the contents thereof.
- (ii) The document has been signed and executed in the capacity specified upon the document with full power and authority to do so, if executed in a representative capacity.
- (iii) The document is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, to the best of the individual's knowledge, information and belief formed after reasonable inquiry.
- (iv) The document is not interposed for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

(2) If a document is signed in violation of this subsection, the presiding officer or the Commission, upon motion or upon its own initiative, may impose upon the individual who signed it, a represented party, or both, an appropriate

sanction, which may include striking the document, dismissal of the proceeding or the imposition of civil penalties under section 3301 of the act (relating to civil penalties for violations).

(d) *Supersession.* Subsections (a)—(c) supersede 1 Pa. Code § 33.11 (relating to execution).

Authority

The provisions of this § 1.35 amended under the Public Utility Code, 66 Pa.C.S. §§ 309—311, 315, 331—335, 501, 504—506, 701—703, 1101—1103, 1301 and 1501.

Source

The provisions of this § 1.35 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended December 2, 1988, effective January 3, 1989, 18 Pa.B. 5451; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097; amended September 26, 2008, effective September 27, 2008, 38 Pa.B. 5303. Immediately preceding text appears at serial pages (319052) to (319054).

Cross References

This section cited in 52 Pa. Code § 3.601 (relating to general); 52 Pa. Code § 56.173 (relating to review from informal complaint decisions of the Bureau of Consumer Services); and 52 Pa. Code § 56.403 (relating to review from informal complaint decisions of the Bureau of Consumer Services).

§ 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 filing date for the verification in paper form will be determined in accordance with § 1.11(a)(1)—(3) (relating to date of filing). The docket number for the filing must be clearly indicated on the original verification. When verification is permitted, notarization is not necessary.

(b) The verification form should comply substantially with the following:

VERIFICATION

I, _____, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date: _____

(Signature)

(c) When an affidavit is used, it must be notarized. 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 filing date for the affidavit in paper form will be determined in accordance with § 1.11(a)(1)—(3). The docket number for the filing must be clearly indicated on the original affidavit. The affidavit form should comply substantially with the following:

AFFIDAVIT

I, _____, (Affiant) being duly sworn (affirmed) according to law, depose and say that (I am authorized to make this affidavit on behalf of _____ corporation, being the holder of the office of _____ with that corporation, and that, I am an employee or agent of _____ and have been authorized to make this affidavit on its behalf and that) the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and (I or corporation) expect to be able to prove the same at any hearing hereof.

(Signature of affiant)

Sworn and subscribed before me this _____ day of __, 2____.

(Signature of official administering oath)
(My Commission Expires)

(d) An applicant for motor carrier rights shall include in the verification the following statement:

Applicant is not now engaged in intrastate transportation of property or passengers for compensation in this Commonwealth except as authorized by the Pennsylvania Public Utility Commission certificate or permit, and will not engage in the transportation for which approval is herein sought, unless and until the transportation is authorized by your Honorable Commission.

(e) An individual who executes a pleading, submittal or other document knowing that it contains a false statement and who causes it to be filed in the Commission shall be subject to prosecution for the commission of a misdemeanor of the second degree in violation of 18 Pa.C.S. § 4904(a).

(f) Subsections (a)—(e) supersede 1 Pa. Code § 33.12 (relating to verification).

Authority

The provisions of this § 1.36 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1102, 1301, 1501, 2503 and 2504.

Source

The provisions of this § 1.36 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended July 14, 1989, effective July 15, 1989, 19 Pa.B. 3037; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097; amended September 26, 2008, effective September 27, 2008, 38 Pa.B. 5303. Immediately preceding text appears at serial pages (319054) to (319055).

Notes of Decisions

Letter from corporate officer requesting reinstatement of Certificate of Public Convenience was properly considered although not in formal compliance with regulations. *P-I-E Nationwide, Inc. v. Pennsylvania Public Utility Commission*, 567 A.2d 1124 (Pa. Cmwlth. 1989).

Cross References

This section cited in 52 Pa. Code § 3.601 (relating to general); 52 Pa. Code § 3.602 (relating to abbreviated securities certificate); 52 Pa. Code § 3.381 (relating to applications for transportation of property, household goods in use and persons); 52 Pa. Code § 5.22 (relating to contents of formal complaint); 52 Pa. Code § 5.342 (relating to answers or objections to written interrogatories by a party); 52 Pa. Code § 5.591 (relating to reports of compliance); 52 Pa. Code § 30.12 (relating to sale of medallion); 52 Pa. Code § 54.32 (relating to application process); 52 Pa. Code § 56.173 (relating to review from informal complaint decisions of the Bureau of Consumer Services); 52 Pa. Code § 56.403 (relating to review from informal complaint decisions of the Bureau of Consumer Services); 52 Pa. Code § 62.103 (relating to application process); 52 Pa. Code § 75.62 (relating to alternative energy system qualification); and 52 Pa. Code § 75.66 (relating to force majeure).

§ 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 the cover letter shall be furnished to the Commission at the time of filing, except when:

(1) 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.

(2) The document is subject to § 5.502 or § 5.533 (relating to 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.

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

(c) *Supersession.* Subsections (a)—(c) supersede 1 Pa. Code § 33.15 (relating to number of copies).

Authority

The provisions of this § 1.37 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 523, 1301, 1501 and 1504.

Source

The provisions of this § 1.37 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097; amended September 26, 2008, effective September 27, 2008, 38 Pa.B. 5303; amended September 20, 2013, effective September 21, 2013, 43 Pa.B. 5593; amended January 10, 2014, effective January 11, 2014, 44 Pa.B. 249. Immediately preceding text appears at serial pages (368393) to (368394).

Cross References

This section cited in 52 Pa. Code § 1.59 (relating to number of copies to be served); 52 Pa. Code § 5.533 (relating to procedure to except to initial, tentative and recommended decisions); 52 Pa. Code § 56.173 (relating to review from informal complaint decisions of the Bureau of Consumer Services); and 52 Pa. Code § 56.403 (relating to review from informal complaint decisions of the Bureau of Consumer Services).

§ 1.38. Rejection of filings.

The Commission may reject a filing if it does not comply with any applicable statute, regulation or order of the Commission.

Authority

The provisions of this § 1.38 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.38 adopted April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097.

Cross References

This section cited in 52 Pa. Code § 56.173 (relating to review from informal complaint decisions of the Bureau of Consumer Services); and 52 Pa. Code § 56.403 (relating to review from informal complaint decisions of the Bureau of Consumer Services).

Subchapter E. FEES

- Sec.
- 1.41. Filing fees.
- 1.42. Mode of payment of fees.
- 1.43. Schedule of fees payable to the Commission.

§ 1.41. Filing fees.

(a) A pleading, submittal or other document for which a filing fee is required to be charged will be received, but will not be deemed to be filed, until the filing fee required by statute or regulation has been paid.

(b) Subsection (a) supersedes 1 Pa. Code § 33.21 (relating to filing fees).

Source

The provisions of this § 1.41 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819.

§ 1.42. Mode of payment of fees.

(a) Fees shall be paid by money order or check made payable to the Commonwealth of Pennsylvania, by electronic payment using the Commission’s electronic filing system or by another method currently acceptable to the Commission. Payments by cash are not accepted without prior Secretary approval and remain at the risk of the sender.

(b) Subsection (a) supersedes 1 Pa. Code § 33.22 (relating to mode of payment of fees).

Authority

The provisions of this § 1.42 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.42 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097; amended September 26, 2008, effective September 27, 2008, 38 Pa.B. 5303. Immediately preceding text appears at serial page (319057).

Cross References

This section cited in 52 Pa. Code § 3.501 (relating to certificate of public convenience as a water supplier or wastewater collection, treatment or disposal provider); and 52 Pa. Code § 54.32 (relating to application process).

§ 1.43. Schedule of fees payable to the Commission.

(a) *Fees for services.* The fees for services rendered by the Commission are as follows:

<i>Description</i>	<i>Fee (in dollars)</i>
Initial filing of Form A for intangible transition property notice.....	\$550
Subsequent filing of notice changes in intangible transition property notice on Form B.....	\$350

<i>Description</i>	<i>Fee (in dollars)</i>
	\$10 plus standard per page copying costs
Chapter 74 public information requests relating to perfection of security interests	
Copies of papers, testimony, microfiche, records and computer printouts per sheet	\$0.75
Copies of microfiche per sheet	\$1.50
Copies of microfilm per roll	\$80
Certifying copy of a paper, testimony or record.	\$5
Filing each securities certificate.	\$350
Filing each abbreviated securities certificate.	\$25
Filing each application for a certificate, permit or license, or amendment of a certificate, permit or license.	\$350
Filing an application for a certificate of public convenience for a motor common carrier of property or a group and party carrier of more than 15 passengers	\$100
Filing an application for emergency temporary authority as common carrier of passengers or household goods in use, contract carrier of passengers or household goods in use, or broker or for an extension thereof.	\$100
Filing an application for temporary authority as common carrier of passengers or household goods in use, contract carrier of passengers or household goods in use, or broker	\$100
Filing an application for a certificate to discontinue intrastate common carrier passenger or household goods in use service.	\$10

(b) *Supersession.* Subsection (a) supersedes 1 Pa. Code §§ 33.21(b) and 33.23 (relating to filing fees; and copy fees).

Authority

The provisions of this § 1.43 amended under the Public Utility Code, 66 Pa.C.S. §§ 317, 501, 504—506, 1102, 1103, 1301, 1501, 2503, 2504 and 2815(d).

Source

The provisions of this § 1.43 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended July 14, 1989, effective July 15, 1989, 19 Pa.B. 3037; amended August 4, 1989, effective August 5, 1989, 19 Pa.B. 3284; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended October 17, 1997, effective October 18, 1997, 27 Pa.B. 5420; amended February 6, 1998, effective February 7, 1998, 28 Pa.B. 647; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097; amended June 2, 2017, effective June 3, 2017, 47 Pa.B. 3099. Immediately preceding text appears at serial pages (376839) to (376841).

Cross References

This section cited in 52 Pa. Code § 1.34 (relating to single pleading or submittal covering more than one matter); 52 Pa. Code § 3.381 (relating to applications for transportation of property, household goods in use and persons); 52 Pa. Code § 3.383 (relating to applications for temporary authority and emergency temporary authority); 52 Pa. Code § 3.501 (relating to certificate of public convenience as a water supplier or wastewater collection, treatment or disposal provider); 52 Pa. Code § 3.601 (relating to general); 52 Pa. Code § 3.602 (relating to abbreviated securities certificate); 52 Pa. Code § 54.32 (relating to schedule of fees payable to the Commission); 52 Pa. Code § 61.20 (relating to meter tests); 52 Pa. Code § 62.103 (relating to application process); 52 Pa. Code § 65.8 (relating to meters); and 52 Pa. Code § 74.12 (relating to fees).

Subchapter F. SERVICE OF DOCUMENTS

- Sec.
1.51. Instructions for service, notice and protest.
1.52. [Reserved].
1.53. Service by the Commission.
1.54. Service by a party.
1.55. Service on attorneys.
1.56. Date of service.
1.57. Proof of service.
1.58. Form of certificate of service.
1.59. Number of copies to be served.

§ 1.51. Instructions for service, notice and protest.

(a) *General rule.* Upon receiving an application, 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 the parties.
- (2) An indication of whether or not a party has agreed to receive electronic service.
- (3) The e-mail addresses of parties who have agreed to receive electronic service.

Authority

The provisions of this § 1.51 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.51 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097; amended September 26, 2008, effective September 27, 2008, 38 Pa.B. 5303. Immediately preceding text appears at serial page (330029).

Cross References

This section cited in 52 Pa. Code § 5.14 (relating to applications requiring notice); and 52 Pa. Code § 5.41 (relating to petitions generally).

§ 1.52. [Reserved].

Source

The provisions of this § 1.52 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; reserved January 24, 1997, effective January 25, 1997, 27 Pa.B. 414. Immediately preceding text appears at serial pages (215922) to (215923).

§ 1.53. Service by the Commission.

(a) *Applicability.* This section applies to service of an order, notice or other document originating with the Commission and other documents designated by the Commission, except when the Commission specifically requires a different form of service.

(b) *Forms of service.*

(1) *First class mail.* Service may be made by mailing a copy thereof to the person to be served, addressed to the person designated in the initial pleading, submittal or notice of appearance at the person's residence, principal office or place of business.

(2) *Personal.* Service may be made personally by anyone authorized by the Commission.

(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 on the same day the document is posted.

(c) *Registered or certified mail.* Service of a petition under § 3.391 (relating to arbitration of claims for billing and collecting services), and service of a complaint under section 702 of the act (relating to service of complaint on parties) must be by registered or certified mail, return receipt requested.

(d) *Change of address.* It is the duty of a party to apprise the Commission promptly of changes to the party's current address.

(e) *Alternative service.* If the Commission is unable to serve a party by mail at the party's last known address, the Commission may make service by publication in a newspaper of general circulation in the same area as the party's last known address. In the alternative, service may also be accomplished by publication in the *Pennsylvania Bulletin* or by service on the Secretary of the Commonwealth, if appropriate.

(f) *Supersession.* Subsections (a)—(e) supersede 1 Pa. Code § 33.31 (relating to service by the agency).

Authority

The provisions of this § 1.53 amended under the Public Utility Code, 66 Pa.C.S. §§ 309—311, 315, 331—335, 501, 504—506, 701—703, 1101—1103, 1301 and 1501.

Source

The provisions of this § 1.53 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended December 2, 1988, effective January 3, 1989, 18 Pa.B. 5451; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097; amended September 26, 2008, effective September 27, 2008, 38 Pa.B. 5303. Immediately preceding text appears at serial page (330030).

§ 1.54. Service by a party.

(a) Pleadings, submittals, briefs and other documents, filed in proceedings pending before the Commission shall be served upon parties in the proceeding and upon the presiding officer, if one has been assigned.

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

(1) *First class mail.* Service may be made by mailing the requisite number of copies to each party as provided in § 1.59 (relating to number of copies to be served), properly addressed with postage prepaid.

(2) *Personal.* Service may be made personally.

(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 of 250 pages or less, including attachments, need not be followed by service of a hard copy to 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.

(4) *Telefacsimile.* Service may be made by telefacsimile to those parties who have agreed to accept service in that manner. Documents served electronically need not be followed by service of a hard copy if the parties have so agreed.

(c) In a proceeding in which only some of the parties participate, the parties, with the authorization of the presiding officer, may limit the service of documents

to parties and persons or individuals which state on the record or request in writing that they wish to be served.

(d) Subsections (a) and (b) supersede 1 Pa. Code § 33.32 (relating to service by a party).

Authority

The provisions of this § 1.54 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.54 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097; amended September 26, 2008, effective September 27, 2008, 38 Pa.B. 5303. Immediately preceding text appears at serial pages (330030) and (319061).

Cross References

This section cited in 52 Pa. Code § 1.56 (relating to date of service); 52 Pa. Code § 1.58 (relating to form of certificate of service); 52 Pa. Code § 5.75 (relating to notice, service and action on petitions to intervene); 52 Pa. Code § 5.421 (relating to subpoenas); and 52 Pa. Code § 5.631 (relating to notice of taking appeal).

§ 1.55. Service on attorneys.

(a) When an attorney enters an appearance under § 1.24 (relating to notices of appearances or withdrawals), service must be directed to the attorney in the same manner as prescribed for his client.

(b) When a party is represented by an attorney, service upon the attorney shall be deemed service upon the party. Separate service on the party may be omitted.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.26 (relating to service on attorneys).

Authority

The provisions of this § 1.55 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.55 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097. Immediately preceding text appears at serial pages (263601) to (263602).

Cross References

This section cited in 52 Pa. Code § 5.421 (relating to subpoenas).

§ 1.56. Date of service.

(a) The date of service shall be the earliest day when the document served meets one of the following conditions:

(1) The document is deposited in the United States mail.

(2) The document is deposited with an overnight express package delivery service.

(3) The document is delivered in person.

(4) The document is transmitted by telefacsimile or electronic mail as provided in § 1.54(b) (relating to service by a party) prior to 4:30 p.m. local prevailing time in the Eastern Time Zone (United States of America).

(5) The document enters an information processing system designated by the recipient for the purpose of receiving service and from which the recipient is able to retrieve the served document in a form capable of being processed by the recipient's system prior to 4:30 p.m. local prevailing time in the Eastern Time Zone (United States of America).

(b) Unless otherwise prescribed by the Commission or presiding officer, whenever a party is required or permitted to do an act within a prescribed period after service of a document upon the party and the document is served by first-class mail by the United States Postal Service, 3 days shall be added to the prescribed period.

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

Authority

The provisions of this § 1.56 amended under the Public Utility Code, 66 Pa.C.S. §§ 309—311, 315, 331—335, 501, 504—506, 523, 701—703, 1101—1103, 1301, 1501 and 1504.

Source

The provisions of this § 1.56 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended December 2, 1988, effective January 3, 1989, 18 Pa.B. 5451; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097; amended September 26, 2008, effective September 27, 2008, 38 Pa.B. 5303; amended September 20, 2013, effective September 21, 2013, 43 Pa.B. 5593. Immediately preceding text appears at serial pages (338464) to (338465).

Notes of Decisions

Three-day Extension

Since neither the administrative law judge nor the Pennsylvania Public Utility Commission otherwise prescribed, the Southeastern Pennsylvania Transportation Authority's exceptions to the recommended decision, filed by mail and received 21 days after the decision, were timely; the 3-day extension is automatic. *Southeastern Pennsylvania Transportation Authority v. Pennsylvania Public Utility Commission*, 592 A.2d 808 (Pa. 1991); appeal denied 611 A.2d 714 (Pa. 1992).

Cross References

This section cited in 52 Pa. Code § 1.8 (relating to definitions); 52 Pa. Code § 5.533 (relating to procedure to except to initial, tentative and recommended decisions); and 52 Pa. Code § 5.535 (relating to replies).

§ 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) 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) *Supersession.* Subsections (a) and (b) supersede 1 Pa. Code § 33.35 (relating to proof of service).

Authority

The provisions of this § 1.57 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.57 amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended September 26, 2008, effective September 27, 2008, 38 Pa.B. 5303. Immediately preceding text appears at serial page (337301).

Cross References

This section cited in 52 Pa. Code § 1.8 (relating to definitions); and 52 Pa. Code § 1.32 (relating to filing specifications).

§ 1.58. Form of certificate of service.

(a) The form of certificate of service 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.

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

Authority

The provisions of this § 1.58 amended under the Public Utility Code, 66 Pa.C.S. §§ 309—311, 315, 331—335, 501, 504—506, 701—703, 1101—1103, 1301 and 1501.

Source

The provisions of this § 1.58 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended December 2, 1988, effective January 3, 1989, 18 Pa.B. 5451; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097; amended September 26, 2008, effective September 27, 2008, 38 Pa.B. 5303. Immediately preceding text appears at serial pages (337301) to (337302).

Cross References

This section cited in 52 Pa. Code § 1.8 (relating to definitions); 52 Pa. Code § 1.32 (relating to filing specifications); and 52 Pa. Code § 1.57 (relating to proof of service).

§ 1.59. Number of copies to be served.

- (a) One copy of a document shall be served on the presiding officer if one has been designated.
- (b) The following number of copies of documents shall be served on other parties in a proceeding:
 - (1) Briefs:
 - (i) Service of hard copies—two copies.
 - (ii) Service by telefacsimile or electronic mail, when permitted—one copy.
 - (2) Other documents—one copy.
- (c) When a document, including attachments, exceeds 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.
- (d) Subsections (a)—(c) supersede 1 Pa. Code § 33.37 (relating to number of copies).

Authority

The provisions of this § 1.59 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 523, 1301, 1501 and 1504.

Source

The provisions of this § 1.59 amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097; amended September 26, 2008, effective September 27, 2008, 38 Pa.B. 5303; amended January 10, 2014, effective January 11, 2014, 44 Pa.B. 249. Immediately preceding text appears at serial page (351345).

Cross References

This section cited in 52 Pa. Code § 1.54 (relating to service by a party); and 52 Pa. Code § 5.502 (relating to filing and service of briefs).

Subchapter G. MATTERS BEFORE OTHER TRIBUNALS

- Sec.
- 1.61. Notice and filing of copies of pleadings before other tribunals.
- 1.62. Filing and record of securities certificate in bankruptcy proceedings.

§ 1.61. Notice and filing of copies of pleadings before other tribunals.

(a) When matters over which the Commission may have jurisdiction under the act are raised in proceedings filed with a court or other regulatory body by a person subject to the act, either an appropriate application or petition, or notice of the proceedings and copies of the material pleadings filed therein, shall be filed simultaneously with the Commission so that it may have sufficient notice and time for proper consideration of the matters within its jurisdiction.

(b) Upon filing of a petition for bankruptcy under the United States Bankruptcy Code (11 U.S.C.) by a jurisdictional utility or licensee or by a parent, affiliate, or direct or indirect subsidiary of a utility or licensee, the utility or licensee shall file a copy of the petition with the Commission, and serve the Office of Trial Staff, the Office of Consumer Advocate and the Office of Small Business Advocate.

(c) An entity subject to the regulatory jurisdiction of the Commission, or its trustee in bankruptcy, shall file a copy of the reorganization plan for itself or for its bankrupt parent, subsidiary or affiliate for Commission review within 10 days after the debtor has filed the plan, its supplements and amendments, or has received notice that the plan has been filed with the court.

(d) If the reorganization plan submitted under subsection (c) contemplates the abandonment of service, the submittal must include an application under Chapter 11 of the act (relating to certificates of public convenience). If a licensee's reorganization plan includes the abandonment of the license, the submittal must include the appropriate pleading as required by the act.

Authority

The provisions of this § 1.61 amended under the Public Utility Code, 66 Pa.C.S. §§ 309—311, 315, 331—335, 501, 504—506, 701—703, 1101—1103, 1301 and 1501.

Source

The provisions of this § 1.61 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended December 2, 1988, effective January 3, 1989, 18 Pa.B. 5451; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097. Immediately preceding text appears at serial pages (225576) to (225577).

Cross References

This section cited in 52 Pa. Code § 63.324 (relating to commission approval of a general rule transaction subject to 66 Pa.C.S. §§ 1102(a)(3) and 1103); and 52 Pa. Code § 63.325 (relating to commission approval of a pro forma transaction subject to 66 Pa.C.S. § 1102(a)(3) and 1103).

§ 1.62. Filing and record of securities certificate in bankruptcy proceedings.

After final approval of a plan by the bankruptcy court, but before issuing or changing the terms and conditions of securities, the debtor or its successor shall file with the Commission a securities certificate in respect to the issuance or change. Development of a record in the proceeding, however, may be unnecessary, if the petition contains a stipulation that the record in a previous proceeding relating to the plan may be considered by the Commission in passing upon the securities certificate.

Source

The provisions of this § 1.62 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819.

Cross References

This section cited in 52 Pa. Code § 63.324 (relating to commission approval of a general rule transaction subject to 66 Pa.C.S. §§ 1102(a)(3) and 1103); and 52 Pa. Code § 63.325 (relating to commission approval of a pro forma transaction subject to 66 Pa.C.S. §§ 1102(a)(3) and 1103).

Subchapter H. PUBLIC ACCESS TO COMMISSION RECORDS

Sec.

- 1.71. Statement of objectives.
- 1.72. Content review of formal case files.
- 1.73. Fiscal records.
- 1.74. Disclosure of other documents.
- 1.75. Review of staff determination.
- 1.76. Tariffs, minutes of the public meetings and annual reports.
- 1.77. Extensions of time to review folders.

§ 1.71. Statement of objectives.

The Commission's records maintenance system is intended to provide for the greatest degree of public access to Commission documents that is consistent with the exercise of the functions of the Commission under the act and other applicable laws. The Commission's system is designed to meet that objective and to give public notice of which classes of documents are available for inspection. The system provides a predictable standard, which nevertheless permits the Commission to take cognizance of the circumstances of individual requests for documents which may militate in favor of or against disclosure.

Authority

The provisions of this § 1.71 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.71 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097. Immediately preceding text appears at serial page (225578).

Cross References

This section cited in 52 Pa. Code § 1.74 (relating to disclosure of other documents); 52 Pa. Code § 1.77 (relating to extensions of time to review folders); and 52 Pa. Code § 5.349 (relating to requests for documents, entry for inspection and other purposes).

§ 1.72. Content and review of formal case files.

(a) *Format.* Format for filing records in formal cases will conform with the following:

- (1) The files for formal cases initiated prior to May 15, 1977, will contain a records, correspondence and testimony folder.
- (2) The files for formal cases initiated on or after May 15, 1977, will contain a document, report and testimony folder.

(b) *Contents.* Contents of folders in formal cases will conform with the following:

- (1) Formal cases initiated prior to May 15, 1977, will conform with the following:
 - (i) *Testimony folder*. This folder will contain hearing transcripts and exhibits.
 - (ii) *Record folder*. This folder will contain formal filings in a case, including but not limited to, complaints, petitions, answers, replies, motions, briefs and requests for procedural or interim orders and opinions.
 - (iii) *Correspondence folder*. This folder will contain staff reports, acknowledgments, proofs of service and other documents not covered by subparagraphs (i) and (ii).
- (2) Formal cases initiated on or after May 15, 1977, will conform with the following:
 - (i) *Testimony folder*. This folder will contain the same material as described in subparagraph (i).
 - (ii) *Document folder*. This folder will contain formal filings in a case, including but not limited to, complaints, petitions, answers, replies, motions, briefs and requests for procedural or interim orders and opinions. In addition, it will contain correspondence from or to the Commission except for staff reports, investigative materials and other material not subject to the disclosure requirements of the Commission.
 - (iii) *Report folder*. This folder will contain staff reports, investigative materials and other material not subject to the disclosure requirements of the Commission.
- (c) *Access*. Access to files in formal cases will conform with the following:
 - (1) The record and testimony folders for cases initiated prior to May 15, 1977, will be available for inspection upon request made to file room personnel during normal Commission business hours.
 - (2) The document and testimony folders for cases initiated on or after May 15, 1977, will be available for inspection upon request made to file room personnel during normal Commission business hours.
 - (3) Material contained in the correspondence folders of formal cases initiated prior to May 15, 1977, will be available for inspection if the material would otherwise have qualified for placement in the document folder, as described in subsection (b)(2)(ii) of cases initiated on or after May 15, 1977. The inspection will be subject to the procedures outlined in subsection (d).
 - (4) The material contained in the report folder of cases initiated on or after May 15, 1977, will not be available for public inspection except as described in § 1.74 (relating to disclosure of other documents).
- (d) *Procedures*. Procedures for review of correspondence and report folders will conform with the following:
 - (1) *Correspondence folders*. Review procedures for correspondence folders will be as follows:

(i) A person desiring access to a correspondence folder of a formal case may request file room personnel for a review of the file to determine which material contained therein may be released for inspection.

(ii) The review will be made and the requestor notified within 30 days.

(iii) If dissatisfied with the results of the first review, the requestor may ask that the documents removed from the correspondence folder before it was given to him be reviewed again.

(iv) A 30-day period applies to the second request for review.

(2) *Report folders.* Review procedures for report folders will be as follows:

(i) A person may request file room personnel for a review of particular documents or for a specifically defined portion of the report folder to determine which, if any, material contained in the folder may be released for inspection.

(ii) The review, except for good cause, will be made and the requestor notified within 30 days.

Authority

The provisions of this § 1.72 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.72 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097. Immediately preceding text appears at serial pages (225578) to (225580).

Cross References

This section cited in 52 Pa. Code § 1.74 (relating to disclosure of other documents); 52 Pa. Code § 1.77 (relating to extensions of time to review folders); and 52 Pa. Code § 5.349 (relating to requests for documents, entry for inspection and other purposes).

§ 1.73. Fiscal records.

(a) Except as provided in subsection (b), an account, voucher or contract dealing with the receipt or disbursement of funds by the Commission or its acquisition, use or disposal of services or supplies, materials, equipment or other property will be available during normal Commission business hours upon request made to the Commission fiscal office. Fiscal records are retained in accordance with time periods set by applicable statutory, regulatory and administrative requirements.

(b) No fiscal record, nor unseverable part thereof, which contains material exempted from the disclosure requirements provided in the act of June 21, 1957 (P. L. 390, No. 212) (65 P. S. §§ 66.1—66.4) or which otherwise presents a substantial need for nondisclosure, will be available for public inspection.

Authority

The provisions of this § 1.73 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.73 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097. Immediately preceding text appears at serial pages (225580) to (225581).

Cross References

This section cited in 52 Pa. Code § 1.74 (relating to disclosure of other documents); 52 Pa. Code § 1.77 (relating to extensions of time to review folders); and 52 Pa. Code § 5.349 (relating to requests for documents, entry for inspection and other purposes).

§ 1.74. Disclosure of other documents.

For documents not made public under §§ 1.71—1.73 and 1.75—1.77 or by statute, access may be had only upon petition of the requestor made to and granted by the Commission.

Source

The provisions of this § 1.74 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819.

Cross References

This section cited in 52 Pa. Code § 1.72 (relating to formal case files); 52 Pa. Code § 1.77 (relating to extensions of time to review folders); and 52 Pa. Code § 5.349 (relating to requests for documents, entry for inspection and other purposes).

§ 1.75. Review of staff determination.

When advised by a staff member that no further staff review of the request for review is possible, the requestor may petition the Commission for review as to a specific or definite class of documents.

Source

The provisions of this § 1.75 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819.

Cross References

This section cited in 52 Pa. Code § 1.74 (relating to disclosure of other documents); 52 Pa. Code § 1.77 (relating to extensions of time to review folders); and 52 Pa. Code § 5.349 (relating to requests for documents, entry for inspection and other purposes).

§ 1.76. Tariffs, minutes of public meetings and annual reports.

Tariffs, minutes of public meetings and annual reports will be available for public inspection and copying upon request to the Secretary's Bureau during the Commission's office hours.

Authority

The provisions of this § 1.76 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.76 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097. Immediately preceding text appears at serial pages (225581) to (225582).

Cross References

This section cited in 52 Pa. Code § 1.74 (relating to disclosure of other documents); 52 Pa. Code § 1.77 (relating to extensions of time to review folders); and 52 Pa. Code § 5.349 (relating to requests for documents, entry for inspection and other purposes).

§ 1.77. Extensions of time to review folders.

For good cause the Commission may extend the time limits applicable to requests for access to documents. In the case of documents displaying no need for confidentiality, or, conversely, documents containing information which the Commission considers improper for public inspection, the Commission may direct the appropriate treatment thereof, notwithstanding contrary provisions in §§ 1.71—1.76.

Authority

The provisions of this § 1.77 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.77 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414. Immediately preceding text appears at serial pages (215931) to (215932).

Cross References

This section cited in 52 Pa. Code § 1.74 (relating to disclosure of other documents); and 52 Pa. Code § 5.349 (relating to requests for documents, entry for inspection and other purposes).

Subchapter I. AMENDMENTS OR WITHDRAWALS OF SUBMITTALS

Sec.

- 1.81. Amendments.
- 1.82. Withdrawal or termination.

§ 1.81. Amendments.

(a) An amendment to a submittal or pleading may be tendered for filing at any time and will be deemed filed in accordance with § 1.11 (relating to date of filing) unless the Commission otherwise orders.

(b) Subsection (a) is identical to 1 Pa. Code § 33.41 (relating to amendments).

Authority

The provisions of this § 1.81 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.81 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097. Immediately preceding text appears at serial page (225582).

§ 1.82. Withdrawal or termination.

(a) A party that desires to terminate an uncontested matter or proceeding before final decision by the Commission or otherwise desires to withdraw a submittal or pleading, shall file a petition for leave to withdraw the appropriate document. If no party objects to the petition within 10 days of service, the matter may be stricken by the Commission or by the presiding officer. If upon review the presiding officer or the Commission determines that the public interest requires continuation of the proceedings, the petition will be denied and the staff may be directed to participate.

(b) Withdrawal of a pleading in a contested proceeding is governed by § 5.94 (relating to withdrawal of pleadings in a contested proceeding).

(c) Subsections (a) and (b) supersede 1 Pa. Code § 33.42 (relating to withdrawal or termination).

Authority

The provisions of this § 1.82 amended under the Public Utility Code, 66 Pa.C.S. §§ 309—311, 315, 331—335, 501, 504—506, 701—703, 1101—1103, 1301 and 1501.

Source

The provisions of this § 1.82 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended December 2, 1988, effective January 3, 1989, 18 Pa.B. 5451; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097. Immediately preceding text appears at serial pages (225582) to (225583).

Cross References

This section cited in 52 Pa. Code § 5.94 (relating to withdrawal of pleadings in a contested proceeding); and 52 Pa. Code § 121.4 (relating to filing and Commission review procedures).

Subchapter J. DOCKET

Sec.
1.86. Docket.

§ 1.86. Docket.

(a) The Secretary will maintain a docket of all proceedings, and each proceeding as initiated will be assigned an appropriate designation. The docket will be available for inspection and copying by the public during the Commission's office hours.

(b) Subsection (a) is identical to 1 Pa. Code § 33.51 (relating to docket).

Authority

The provisions of this § 1.86 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.86 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414; amended April 28, 2006, effective April 29, 2006, 36 Pa.B. 2097. Immediately preceding text appears at serial page (225583).

Subchapter K. WAIVER OF RULES

Sec.
1.91. Applications for waiver of formal requirements.

§ 1.91. Applications for waiver of formal requirements.

(a) A request for waiver of, or exception to, any provision of this chapter or Chapter 3 or 5 (relating to special provisions; and formal proceedings) or a regulation or requirement with which the document tendered is in conflict or does not conform may accompany a pleading, submittal or other document subject to rejection under § 1.4 (relating to filing generally). The request shall show the nature of the waiver or exception desired and set forth the reasons in support thereof. Unacceptable filings may be returned by the Commission with an indication of the deficiencies thereof and the reasons for nonacceptance and return.

(b) Unless the Commission expressly orders, acceptance for filing will not waive a failure to comply with this title or other applicable requirements, and the failure may be cause for striking all or any part of the filings.

(c) Subsections (a) and (b) are identical to 1 Pa. Code § 33.61 (relating to applications for waiver of formal requirements).

Authority

The provisions of this § 1.91 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.91 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414. Immediately preceding text appears at serial pages (215933) to (215934).

Subchapter L. UNOFFICIAL STATEMENTS AND OPINIONS

Sec.
1.96. Unofficial statements and opinions by Commission personnel.

§ 1.96. Unofficial statements and opinions by Commission personnel.

Statements contained in formal opinions of the Commission or in decisions of a presiding officer which are not necessary in resolving the case, and informal opinions, whether oral or written, expressed by Commissioners, presiding offic-

ers, legal counsel, employes or representatives of the Commission and reports drafted by Commission bureaus are only considered as aids to the public, do not have the force and effect of law or legal determinations, and are not binding upon the Commonwealth or the Commission.

Authority

The provisions of this § 1.96 amended under the Public Utility Code, 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501.

Source

The provisions of this § 1.96 adopted October 12, 1984, effective January 1, 1985, 14 Pa.B. 3819; amended January 24, 1997, effective January 25, 1997, 27 Pa.B. 414. Immediately preceding text appears at serial page (215934).

Cross References

This section cited in 52 Pa. Code § 63.222 (relating to expedited process for resolution of migration disputes between service providers); and 52 Pa. Code § 69.1401 (relating to guidelines for determining public utility status—statement of policy).

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