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November 29, 2004

Mr. James E. Spearman
Executive Assistant
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

RE: Undocketed Workshop Regarding Commission Regulations

Dear Mr. Spearman:

In compliance with the "Notice of Non-Docketed Proceedings" the Public Service Commission of South Carolina ("the Commission") issued on October 20, 2004, BellSouth Telecommunications, Inc. ("BellSouth") electronically submits, for the Commission's consideration, the attached written specific language regarding proposed changes to Article 6 and Article 8 of the Commission's regulations. For the Commission's convenience, a redlined and non-redlined version of both Article 6 and Article 8 are attached. BellSouth reserves the right to alter or modify these proposals as other interested persons submit comments regarding these regulations and as the Commission continues to consider these matters in the future.

If you need any additional information regarding this matter, please do not hesitate to contact me.

Sincerely,

Patrick W. Turner by sgm

Patrick W. Turner

PWT/sgm
Attachment
PC Docs #560542

TELEPHONE UTILITY REGULATIONS OF THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

Copied from SCPSC web page 12/2/02

ARTICLE 6.

~~TELECOMMUNICATIONS~~ TELEPHONE UTILITIES

SUBARTICLE 1.

GENERAL

103-600. Authorization of Rules.

A. Section 58-9-810 of the Code of Laws of South Carolina, 1976, provides:

"The Commission may make such rules and regulations not inconsistent with law ~~or statute~~ as may be proper in the exercise of its powers or for the performance of its duties under Articles 1 through 13 of this chapter, all of which shall have the ~~effect~~force of law."

In accordance with the above provisions, the Public Service Commission has adopted the following rules, ~~and~~ regulations, ~~and~~ ~~fixed the following~~ standards to govern telephone ~~and telegraph~~ service that is under the jurisdiction of the Commission and that is offered by telephone ~~and telegraph~~ utilities. ~~, s~~Such rules shall become effective ~~June 30, 1989~~ insert effective date.

All previous rules and regulations or standards are hereby annulled, revoked and superseded.

B. The adoption of these rules shall in no way preclude the Public Service Commission from altering, amending or revoking them in whole or in part, or from requiring any other or additional service, equipment, facility or standard, either upon complaint or upon its own motion, or upon the application of any utility.

103-601. Application of Rules.

1. Jurisdiction. To the extent allowed by law, ~~T~~these rules and regulations shall apply to any ~~person~~individual, firm, partnership, cooperative, ~~or~~ corporation, association, establishment, or governmental subdivision which is now or may hereafter become engaged as a telephone utility under the jurisdiction of the Commission and in the business of furnishing retail telecommunications service that is regulated by the Commission to any retail customer within the State of South Carolina and to the retail customers of such utility.

2. Purpose. These rules and regulations are intended to define good practices. They are intended to insure the availability of adequate and reasonable basic local exchange telephone service. The utilities shall assist the Commission with the implementation of these rules and regulations.

3. Waiver of Rules. In any case where compliance with any of these rules and regulations introduces unusual difficulty or where circumstances indicate that a waiver of one or more rules or regulations is otherwise appropriate, such rule or regulation may be waived by the Commission upon a finding by the Commission that such a waiver is not contrary to ~~in~~ the public interest.

103-602. Definitions.

The following words and terms, when used in these rules and regulations, shall have the meaning indicated below.

103-602.1. Access Line.

The circuit between a subscriber's standard interface located on the subscriber's premises and the central office.

103-602.2. Commission.

The Public Service Commission of South Carolina.

103-602.3. Utility.

A telephone utility as defined in S.C. Code Ann. §58-9-10(6). ~~Any telecommunications utility operating under the jurisdiction of the Commission.~~

103-602.4. Customer.

Any person, firm, association or corporation, or any agency of the Federal, State or local government, being ~~supplied~~ provided retail telecommunications service by a utility.

~~103-602.5. Reference.~~

~~For the purpose of these rules and regulations the reference as specified in R. 642 will be used for the definitions of terms, abbreviations, units of measure, etc.~~

103-602.~~6~~5. Standard Network Interface.

The point of demarcation between ~~telephone company~~utility-owned facilities and customer-owned wiring and/or equipment.

103-602.~~7~~6. Interexchange Carrier.

Carrier authorized by the Commission to provide services related to long distance services.

103-602.~~8~~7. ~~Cocot~~PSP.

~~Customer Owned Coin Operated Telephone~~Payphone Service Provider.

103-602.~~9~~8. Radio Common and Cellular Carrier.

A mobile telecommunications carrier licensed by the Federal Communications Commission ("FCC") and authorized by the ~~Commission~~ FCC to receive and transmit signals from mobile transmitter within a specified geographic area.

103-502.9. Written

Written includes, without limitation, electronic transmissions.

~~103-602.10. 900 Numbers.~~

~~Premium access services furnished by information providers for which end user customers pay on a per call basis. This definition includes all 900 and 900-type access numbers and any similarly promoted pay-per-call information services.~~

~~103-602.11. Information Provider.~~

~~An entity which, on an intrastate or interstate basis, disseminates information for compensation over the telecommunications network. Such entities are usually accessed by end-user customers by 900 and 900-type numbers.~~

103-603. Authorization for Rates and Charges.

A. Unless they are exempt from such approval by statute, Commission order, or other provision of law, ~~N~~no schedules of rates, tariffs nor contracts involving rates under the jurisdiction of this Commission shall be changed until after the proposed change has been approved by the Commission.

B. Unless they are exempt from such approval by statute, Commission order, or other provision of law, ~~A~~ all rates, tolls, charges and contracts involving rates under the jurisdiction of this Commission proposed to be put into effect by any utility shall be first approved by this Commission before they shall become effective, ~~unless they are exempt from such approval by statute, order of this Commission, or other provision of law.~~

C. Unless otherwise provided by statute, Commission order, or other provision of law, ~~N~~ no rate, toll charge, nor contract involving rates under the jurisdiction of ~~this~~ the Commission of any utility shall be deemed approved nor consented to by the mere filing of a schedule or other evidence thereof in the offices of the Commission. ~~, unless otherwise provided for by law.~~

103-604. Territory and Certificated Area.

Unless otherwise provided by statute, Commission order, or other provision of law, ~~E~~ each utility shall provide service only within ~~its certified~~the areas authorized by the Commission. ~~, unless exempt by Commission action, order or statute.~~

103-605. Utility Rules, ~~and~~ Regulations, Operating Procedures, Policies, and Instructions.

~~Each utility shall adopt such~~ A utility may adopt rules, regulations, operating procedures, policies and instructions ~~as may be necessary to govern all aspects of~~ addressing the regulated ~~telephone~~ services it offers to customers. Unless otherwise provided by statute, Commission order, or other provision of law, such ~~to its customers so long as those~~ rules, ~~and~~ regulations, operating procedures, policies and instructions must comply with the ~~are not in contradiction to~~ rules, ~~and~~ regulations, and orders of this Commission ~~or other statutory laws~~; and ~~. All rules and regulations, operating procedures, policies and instructions as outlined above~~ are subject to review by the Commission.

~~103-606. Service Offerings.~~

~~Each utility is authorized to offer such types, class, grades, classification and forms of service as it may deem necessary, so long as each type, class, grade, classification or form of service has been approved or authorized by this Commission.~~

SUBARTICLE 2.

RECORDS AND REPORTS

103-610. Location of Records and Reports.

All records required by these rules or necessary for the administration thereof~~, shall be kept within the State, unless otherwise authorized by the Commission. These records~~

shall be available for examination by the ~~Commission~~ Office of Regulatory Staff or its authorized representatives at all reasonable hours.

103-611. Retention of Records.

Retention of records shall be as specified in the Federal Communications Commission's Rules and Regulations, Part 42, unless otherwise directed by the Commission. Further, ~~the Company~~each utility shall maintain sufficient records necessary to verify and substantiate all requirements included in these rules. These records include, but are not limited to, trouble reports, service orders, itemized customer billing records, customer deposits, and complaints.

103-612. Data to be Filed with the Commission.

~~The~~ Each utility shall file with the Commission the following documents and information:

1. Annual Report. Each utility operating in the State shall file an annual report with this Commission giving such information as the Commission may direct. A utility operating under South Carolina Code Annotated Section 58-9-575, 58-9-576, 58-9-577, or 58-9-585 may comply with this requirement by filing with the Commission copies of the annual report(s) it submits to the Federal Communications Commission ("FCC").

2. Current Information and Documents. The information required under this Section shall be kept current at ~~ALL TIMES~~ all times.

2.1. Tariffs. Unless otherwise required by law, ~~E~~each utility shall file ~~for approval a~~ tariffs addressing the regulated services offered by the utility. Such tariffs shall include~~.~~:

~~The utility's tariff shall include:~~

a. ~~A copy of the utility's rules,~~the terms~~, or~~ and conditions ~~, describing the utility's policies and practices in rendering service.~~ under which the utility provides the services.

b. ~~A list of all~~the types, classes, grades, classifications and forms of services offered.

c. A list of the items which the utility furnishes, owns and maintains on the customers' premises, for which a charge is made.

d. The nonrecurring charges, the recurring charges, and the ~~for installation, cost per month or otherwise of the above items and~~ termination charges, if any, that apply to the services.

~~e. Definitions of all types, classes, grades, classifications, and forms of service offered.~~

~~2.2. Customer Bill. Each utility shall file in the office of the Commission a copy of the form used for billing.~~

2.~~3~~2. Operating Area Maps. Each utility shall file with ~~this~~ the Commission a map or maps showing its ~~certificated~~ Commission-approved area of operation and/or exchange service area(s). ~~These maps should be of such detail and scale that boundary lines between exchange service areas and boundary lines between telephone companies are accurately locatable.~~

~~The maps, as outlined above, shall be revised whenever boundary changes are made and shall be signed by the proper officials and filed for approval with this Commission.~~

2.~~4~~3. Authorized Utility Representative. Each utility shall maintain with the Commission the name, title, address, and telephone number of the person(s) who should be contacted in connection with all matters related to the utility's operations in this State. ~~:~~

~~a. General Management Duties~~
~~b. Customer Relations (Complaints)~~
~~c. Engineering Operations~~
~~d. Test and Repairs~~
~~e. Emergencies during non-office hours~~

2.~~5~~4. ~~Number of Customers. Each utility shall furnish to the Commission the total number of subscribers at the end of each calendar year. This information is to be filed by January 31 of the following year.~~ Number of local exchange access lines. No later than March 15 of each year, each local exchange carrier, as defined in S.C. Code Ann. §58-9-10(12), must report to the Commission the total number of access lines providing local exchange telecommunications services to an end user in the State of South Carolina.

~~103-613. Inspection of Utility Plant.~~

~~A. Each utility shall, upon request of the Commission, file with the Commission a statement regarding the condition and adequacy of plant, equipment, facilities and service in such form as the Commission may require.~~

~~B. Each utility shall keep sufficient records to give evidence of compliance with its inspection programs as set forth in R.103-640 through 654 of these rules and regulations.~~

103-~~614~~613. Interruption of Service.

Each utility shall keep a record of any condition resulting in any interruption of service affecting its entire system or major division of a telephone exchange, including a statement of the time, duration, cause of any such interruption, and steps taken to correct the interruption. The Commission shall be notified of any such interruption, if that interruption exceeds one hour, as soon as practicable. (See ~~E~~R.103-661). A copy of any

written report submitted to any Federal jurisdictional entity shall also be submitted with the Commission.

103-~~615~~614. Accidents.

Each utility shall maintain adequate and accurate records of each accident happening in connection with the operation of its property, facilities, or service wherein any person shall have been killed or whereby any serious property damage shall have been caused.

103-~~616~~615. Office of Regulatory Staff~~Commission~~ Complaints.

A. Each utility shall keep a record of all written complaints received from the ~~Commission~~Office of Regulatory Staff. This record shall show the name and address of the complainant, the date, the nature of the complaint, and the adjustment or disposal thereof. Except in cases of high toll usage, if the utility is given at least four hours notice of the written compliant, ~~The utility, except in cases of high toll usage, and when given at least four hours notice shall~~ the utility shall not terminate service to a complainant until an answer to the complaint is conveyed to the ~~Commission~~Office of Regulatory Staff. A written or oral response is allowable for complaints that the utility wishes to dispose of immediately. The use of an oral response does not preclude supplying the ~~Commission~~Office of Regulatory Staff with a written response to written complaints.

B. In order to assist the Commission in complying with the requirements of S.C. Code Ann. §58-9-280(G)(3), the Office of Regulatory Staff must maintain a copy of all written complaints received regarding the impact broadband service may be having on the competitive local exchange market. This information must be compiled and made available to the Commission by April 15 of each year.

103-~~616~~615.1. ~~Written~~ Customer Complaints.

Each utility shall investigate customer ~~C~~complaints concerning the regulated charges, practices, facilities, or service of the utility ~~shall be investigated~~ promptly and thoroughly. Each utility shall respond to such ~~the~~ complaints ~~conveyed to the utility by the Commission~~ in a timely and thorough manner. The utility shall keep such records of customer complaints as will enable it to review and analyze its procedures and actions. ~~, not to exceed fourteen days from the receipt of the complaint by the utility in writing. Failure to respond within the specified fourteen day period may result in the granting of the relief requested or such other action as the Commission may deem appropriate.~~

~~103-616.2. Oral Complaints.~~

~~Oral complaints, including inquiries, shall be processed as soon as possible after being received. All complaints of this nature will be investigated and disposed of within 7 days, unless the complaint is of an extraordinary nature.~~

103-~~617~~616. Tests.

Unless otherwise directed by the Commission, ~~E~~each utility shall keep a record of all tests procedures ~~which are~~ performed as a result of these rules. ~~, unless otherwise directed by the Commission.~~

103-~~618~~617. Network Service Reports.

Within 30 days of written request by the Commission, ~~E~~each ~~telephone~~ utility must make the ~~shall file the~~ following service reports available to ~~with~~ the Commission, and must provide such reports to the Office of Regulatory Staff. ~~on a quarterly basis within thirty (30) days of the end of the each calendar quarter.~~

~~Reports shall show results by wire center, central office, exchange, or maintenance group.~~

A. Trouble reports per hundred access lines:

The report shall contain the ~~total~~ number of actual customer ~~complaints~~ trouble reports received ~~for each quarter~~ per hundred access lines. ~~Details of the calculations shall be shown by indicating the actual number of reported trouble reports and indicating the corresponding number of access lines for each reporting group. A composite trouble report rate shall be computed~~ for the ~~total~~ utility's regulated operations. ~~Trouble report per hundred access lines rates which exceed the Commission's specified objectives (See R.103-663.6) shall be accompanied by written explanation.~~

B. Customer out of service trouble clearing times:

The report shall contain the percentage number of out of service reports cleared within twenty four (24) hours, excluding weekends and holidays. ~~The report shall indicate the total actual number of reported customer out of service reports for each reporting group. Out of service clearing times which exceed the Commission's specified objective (See R.103-663.7) shall be accompanied by written explanation.~~

C. A utility operating under South Carolina Code Annotated Section 58-9-575, 58-9-576, 58-9-577, or 58-9-585 may comply with this rule by developing and maintaining internal measurements that track the network service quality the utility provides to its customers with regard to regulated services and by making available to the Commission reports of these internal measurements.

103-~~619~~618. Held Applications/Availability of Service.

A. Within 60 days of written request by the Commission, each utility must make the following service reports available to the Commission, and must provide reports to the Office of Regulatory Staff~~The following information shall be filed with the Commission on a quarterly basis within thirty (30) days of the end of the each calendar quarter.~~

~~Reported information which indicates that the Commission's specified objectives have not been met shall be accompanied by explanation. Reports shall show results by wire center, central office, exchange or maintenance group. This information shall be reported as a percentage of work order activity characterized as follows~~ that indicate:

a. The number of applications for new regulated services held over thirty (30) days.
~~b. The number of applications for regrade held over thirty (30) days.~~
~~c. The total number of access lines.~~
~~d~~b. The percentage of regulated service orders for installations and re-installations completed within five (5) working days.
~~e~~c. The percentage of ~~C~~commitments fulfilled for regulated services.

B. A utility operating under South Carolina Code Annotated Section 58-9-575, 58-9-576, 58-9-577, or 58-9-585 may comply with subsection A. of this rule by developing and maintaining internal measurements that track the availability of its regulated services to its customers and by making available to the Commission reports of these internal measurements.

SUBARTICLE 3.

CUSTOMER RELATIONS

103-~~620~~619. Customer Information.

Each utility shall:

a. Maintain up-to-date maps, plans, or records of its entire system, with other information as may be necessary to enable the utility to advise prospective customers, and others entitled to the information, as to the facilities available for serving customers within its operating area.

b. ~~If~~ Unless otherwise provided by law, if so directed by the Commission, notify by mail or electronically each customer affected ~~in writing,~~ of any proposed changes in rates and charges. ~~The form of such notification shall be prescribed by the Commission.~~ The utility shall furnish ~~A~~ a certification that this ~~e above~~ notice requirement has been met ~~shall be furnished~~ to the Commission. ~~by the utility.~~

~~c. Post a notice in a conspicuous place in each office of the utility where applications for service are received, informing the public that copies of the rate schedules and rules relating to the service of the utility, as filed with the approved by the Commission, are available for inspection.~~

~~d~~c. ~~Furnish, u~~Upon request, furnish information as to the utility's billing procedures to a customer.

~~e~~d. ~~Each utility shall p~~ Provide adequate means whereby each customer can contact repair service at all hours.

~~f~~e. Furnish such additional reasonable information as customers may request.

~~g. Notify all customers making a complaint that the telephone utility is under the jurisdiction of the Commission and the customer may wish to contact the Commission about the complaint.~~

103-~~621~~620. Customer Deposits.

A. Each ~~telephone~~ utility may require from any customer or from any prospective customer, a deposit intended to guarantee payment of bills for regulated service, if any of the following conditions exist:

1. The utility determines, through use of commercially acceptable methods, that the customer's credit and financial condition so warrants; or

2. The customer's gross monthly billing increases; or

~~1~~3. The ~~customer's past payment record to a telecommunications utility shows delinquent payment practice, i.e., customer has~~ customer has had two ~~consecutive~~ 30-day arrearages in the past 24 months or ~~, or more than two non-consecutive 30-day arrearages in the past 24 months, or~~ the customer has been sent two ~~four~~ or more late payment notices in the past 9 months~~,~~; or

~~2~~4. A new customer cannot furnish ~~either a letter of good credit from a reliable source or~~ an acceptable co-signer or guarantor who is a customer of the utility ~~on the same system~~ within the State of South Carolina to guarantee payment, or

~~3. A customer has no deposit and presently is delinquent in payments (i.e., has had two consecutive 30-day arrears, or more than two non-consecutive 30-day arrears, in the past 24 months), or~~

~~4~~5. A customer has had his service terminated by any ~~telecommunications~~ utility for non-payment or fraudulent use.

~~B. Each utility shall inform each prospective customer of the provisions contained in R.103-621-(A).~~

~~C. Excluded from deposit considerations are billings for 900 and 900-type charges, and non-regulated items.~~

B. A utility is not required to install new service to a customer prior to the utility's receipt of any deposit that is required of that customer.

103-~~621~~620.1. Deposit Receipt.

Each utility shall ~~issue a~~ maintain records of each ~~receipt of~~ deposit it receives from a ~~to each~~ customer ~~from whom a deposit is received,~~ and shall provide means whereby a customer may establish a ~~his~~ claim ~~if his receipt is lost~~ regarding a deposit.

103-~~621~~620.2. Amount of Deposit.

A. Security deposits must not exceed two months' estimated billing. For an existing customer, estimated billing is calculated based upon the highest amount of the customer's previous six (6) month's current billing, including toll and taxes. For a new customer, estimated billing is calculated based on all information available to the utility at the time the deposit is calculated. ~~For a new customer, a maximum deposit may be required up to an amount equal to an estimated two (2) months (60 days) total bill (including toll and taxes). For an existing customer, a maximum deposit may be required up to an amount equal to the total actual bills of the highest two (2) consecutive months within the preceding six (6) months.~~

B. All deposits may be subject to review based on the actual experience of the customer. The amount of the deposit may be adjusted upward or downward to reflect the actual billing experience, ~~and~~ the payment habits, and the credit worthiness of the customer.

103-~~621~~620.3. Interest on Deposits.

A. Simple interest on deposits at ~~the~~ a rate no less than that ~~as~~ prescribed by the Commission shall be paid by the utility to each customer required to make such deposit for the time it is held by the utility.

B. The interest shall ~~be~~ accrue~~d~~ annually and payment of such interest shall be made to the customer at least every two (2) years and at the time the deposit is returned.

C. The utility is not required to pay ~~deposit shall cease to draw~~ interest on the deposit beyond the date it is returned, the date service is terminated, the date the customer files for bankruptcy, or on the date notice is sent to the customer's last known address that the deposit is no longer required.

~~103-621.4. Deposit Records.~~

~~Each utility shall keep records to show:~~

~~a. The name and address of each depositor~~
~~b. The amount and date of the deposit~~
~~c. The last transaction concerning the deposits~~
~~d. The reasons why deposit retained after two year retention period (See R.103-621.5)~~

103-~~621~~620.~~5~~4. Deposit Retention.

Deposits shall be refunded completely with interest after two years unless the customer has had two ~~consecutive~~ 30-day arrearages ~~or more than two non-consecutive 30-day arrearages~~ in the past 24 months, or has had service denied or interrupted for non-payment of bills, or has been sent more than two late payment notices in he past 9 months, or has a returned check in the past 6 months.

103-~~621~~620.~~6~~5. Unclaimed Deposits.

A record of each unclaimed deposit must be maintained for at least two years, during which time the ~~telephone~~ utility shall make a reasonable effort to return the deposit. Unclaimed deposits, together with accrued interest, shall be ~~turned over to the S. C. Tax Commission as prescribed by law~~ treated in accordance with law.

103-~~621~~620.~~7~~6. Deposit Credit.

~~Where~~ If a customer has been required to make a ~~guaranteed~~ deposit, that deposit shall not relieve the customer of the obligation to pay the service bill when due, but where such deposit has been made and service has been disconnected because of nonpayment of account, then unless the customer shall, within seventy-two hours after service has been disconnected, apply for reconnection of service and pay the account, the account may be discontinued. If the utility discontinues the account, the utility shall apply the deposit of such customer toward the discharge of such account and shall refund to the customer any excess.

103-~~622~~621. Customer Billing.

Every ~~telephone~~ utility shall render each customer an accurate and timely bill.

103-~~622~~621.1. Bill Forms.

Each utility's bill must comply with the Federal Communications Commission's "Truth in Billing Requirements" that are in effect at the time the utility's bill is prepared. ~~should show the following:~~

~~a. Telephone number or account number when available~~

~~b. Person to whom bill is sent~~

~~c. Dates charged for~~

~~d. Toll charges itemized and coded as to time of day (daytime, evening, etc.) person to person, DDD, etc.~~
~~e. Charge for local service, such charges should be itemized for residential and single line business subscribers based on the following minimum criteria:~~

~~1. At the time a customer initially applies for service (first bill generated).~~

~~2. When an existing customer applies for a change in the local service(s) provided, either add or discontinue, i.e., TouchTone, Custom Calling feature, etc., (next scheduled bill generated).~~

~~3. Annually. This would occur for any customer who has had service longer than one year and has had no changes to their local service charge (service order activity) during the previous 12 months. The status of the customer's access to 900 numbers (blocked or not blocked) should be indicated in this annual statement.~~

~~f. Taxes~~

~~g. Balance brought forward~~

~~h. Date due~~

~~i. Amount due~~

~~j. Late payment charges~~

103-~~622~~621.2. Late Payment Charges.

A utility may add a late payment charge as set forth in its tariffs. ~~maximum of one and one half percent (1 1/2 %) may be added to any unpaid balance brought forward from the previous billing date to cover the cost of collection and carrying accounts in arrears. This method of late payment charge will be made in lieu of any other penalty. Billings for 900 and 900-type charges or non-regulated items are excluded from the balance on which a late fee may be imposed.~~

103-~~622~~621.3. Disconnection and Reconnection.

Whenever ~~telephone~~ regulated service is denied or discontinued for ~~violation of rules and regulations, non-payment of bills or fraudulent use of telephone service,~~ any appropriate reason, the utility may make ~~an approved~~ a tariffed charge for costs incurred in disconnecting or discontinuing the ~~communication~~ regulated service and reconnecting it after restoration and may require payment for service not previously billed.

103-~~622~~621.4. Payment by Check.

The utility, at its option for good cause, may refuse to accept a check tendered as payment on a customer's account.

103-~~622~~621.5. ~~Deferred Payment Plan~~Payment of Past-Due Amounts for Residential Regulated Services.

The utility may, by tariff, provide for the arrangement of a ~~deferred payment~~ plan to enable a residential customer to make payment of past-due amounts for regulated services by installments. ~~where such customer is unable to pay the amount due for service. The deferred payment plan may require the affected customer to maintain his account current and pay not less than 1/6 of the outstanding balance for a period not to exceed six months. The outstanding balance may include the late payment charge authorized by R.103-622.2. A deferred payment plan is any agreement to defer a payment to the next billing cycle.~~

103-~~623~~622. Adjustment of Bills.

~~If it is found that a telecommunications utility has directly or indirectly, by any devise whatsoever, demanded, charged, collected or received from any customer a greater or lesser compensation for any service rendered or to be rendered by such telecommunications utility than that prescribed in the schedules of such telecommunications utility applicable thereto then filed in the manner provided in Title 58 of the South Carolina Code of Laws, or if it is found that any customer has received or accepted any service from a telecommunications utility for a compensation greater or lesser than prescribed in such schedules; or if, for any reason, billing error has resulted in a greater or lesser charge than that incurred by the customer for the actual service rendered, then the method of adjustment for such overcharge or undercharge shall be as provided by the following~~ Billing errors for regulated services shall be handled in the following manner:

103-~~623~~622.1. Customer Willfully Overcharged.

If the ~~telecommunications~~ utility has willfully overcharged any customer, the ~~company~~ utility shall refund the difference, plus interest, as prescribed by the Commission, for the period of time that can be determined that the customer was overcharged.

103-~~623~~622.2. Customer Inadvertently Overcharged.

If the ~~telecommunications~~ utility has inadvertently overcharged a customer, ~~as a result of a misapplied schedule or any other human or machine error, the telecommunications utility shall, for any amount of dollar ($1.00) or more (amounts less than $1.00 will be credited to account) at the customer's option,~~ the utility must, at its option, credit the customer's bill ~~,~~ or give a refund in the excess amount paid by that customer ~~or credit the amount billed~~ as ~~provided by the~~ follows: ~~ing:~~

a. If the interval during which the customer was overcharged can be determined, then the ~~telecommunications utility~~utility shall credit or refund the excess amount charged during the interval, provided that the applicable statute of limitations shall not be exceeded.

b. If the interval during which the customer was overcharged cannot be determined then the ~~telecommunications utility~~utility shall credit or refund the excess amount charged during the ~~12-month~~ 6-month period preceding the date when the error was discovered.

c. If the exact amount of the overcharge incurred by the customer during the billing periods subject to adjustment cannot be determined, then the credit or refund shall be based on an appropriate estimated amount of excess payment.

103-~~623~~622.3. Customer Undercharged Due to Willfully Misleading ~~Company~~the Utility.

If the ~~telecommunications~~ utility has undercharged any customer as a result of a fraudulent or willfully misleading action of that customer, or any action by any person (other than the employees or agents of the ~~telecommunications~~ utility), such as tampering with the facilities, when it is evident that such tampering or bypassing occurred during the residency of that customer, or if it is evident that a customer has knowledge of being undercharged without notifying the ~~telecommunications utility~~utility ~~as~~ of such, then the ~~telecommunications~~ utility shall recover the deficient amount provided as follows:

a. If the interval during which the customer was undercharged can be determined, then the ~~telecommunications utility~~utility shall collect the deficient amount incurred during the entire interval, provided the applicable statute of limitations is not exceeded.

b. If the interval during which the customer was undercharged cannot be determined, then the ~~telecommunications~~ utility shall collect the deficient amount incurred during the ~~-~~12-month period preceding the date when the billing error was discovered by the ~~telecommunications~~ utility.

103-~~623~~622.4. Customer Undercharged Due to Inadvertence~~Human or Machine Error.~~

If the ~~telecommunications~~ utility has inadvertently undercharged any customer, ~~as a result of a misapplied schedule, or any human or machine error when the telecommunications~~ the utility may recover the deficient amount as follows:

a. If the interval during which a customer was undercharged can be determined, then the ~~telecommunications~~ utility may collect the deficient amount incurred during the entire interval, provided that the applicable statute of limitations shall not be exceeded. ~~up to a maximum period of six months.~~

b. If the interval during which a customer was undercharged cannot be determined, then the ~~telecommunications~~ utility may collect the deficient amount incurred during the 6-month period preceding the date when the billing error was discovered by the ~~telecommunications~~ utility.

c. The customer shall be allowed to pay the deficient amount, in equal installments added to the regular monthly bills devoid of late charges, over the same number of billing periods which occurred during the interval the customer was subject to pay the deficient amount.

103-~~624~~623. Applications for Regulated Service.

103-~~624~~623.1. Method.

Applications for service may be oral or ~~in writing~~written.

103-~~624~~623.2. Obligation.

At the option of the utility, an ~~The~~ applicant ~~shall, at the option of the telephone utility,~~ may be required to sign a service agreement or a contract. In the absence of such service agreement or contract, the accepted application shall constitute a contract between the ~~telephone~~ utility and the applicant, obligating the applicant to pay for service in accordance with the ~~telephone~~ utility's tariff currently on file with the Commission, and to comply with the Commission's and the ~~telephone~~ utilities' rules and regulations.

103-~~624~~623.3. Termination.

When a customer desires to have his service terminated, he must notify the ~~telephone~~ utility. Such notification may be oral or ~~in writing~~written. The ~~telephone~~ utility shall be allowed a reasonable period of time after the receipt of such notice to ~~send a final bill~~terminate the service.

103-~~625~~624. Reasons for Denial or Discontinuance of Service.

Service may be refused or discontinued for any of the reasons listed below, for any reason set forth in the utility's tariffs, or for any reason set forth in the utility's individual contracts for services. Unless otherwise stated, the customer shall be allowed a reasonable time in which to comply with the rule before service is discontinued.

a. Without notice, in the event of a condition determined by the utility to be hazardous or dangerous.

b. Without notice, in the event of customer use of equipment in such a manner as to adversely affect the utility's service to others.

c. Without notice, in the event of unauthorized use of telephone service.

d. For the customer tampering with equipment furnished and owned by the utility.

e. For violation of and/or non-compliance with the Commission's Orders or regulations governing service supplied by the utilities.

f. For failure of the customer to fulfill his contractual obligations for service and/or facilities subject to regulation by the Commission.

g. For failure of the customer to permit the utility reasonable access to its equipment.

h. In cases ~~of extreme risk~~ involving abnormal and excessive use of toll service, service may be denied ~~two (2) days~~ twenty-four (24) hours after written notice is given to the customer, unless satisfactory arrangements for payment are made.

i. For failure of the customer to provide the utility with a deposit as authorized by 103-621(1).

j. For failure of the customer to furnish permits, certificates, and/or right-of-ways, as necessary to obtain service, or in the event such permissions are withdrawn or terminated.

k. Where there is probable cause to believe that there is illegal or willful misuse of utility's service.

l. If a prospective or existing customer ~~No telephone utility shall be required to furnish its service or to continue its service' to any applicant who, at the time of such application,~~ is indebted under an undisputed bill to such ~~telephone~~ utility for ~~telephone~~ regulated service previously furnished such customer ~~applicant~~ or furnished any other member of ~~the applicant's~~ such customer's household. However, for the purposes of this regulation, the ~~telephone~~ utility may not consider any indebtedness which was incurred by ~~the applicant~~such customer or any member of his household more than six (6) years prior to the time of the contemplated refusal or discontinuance of service. ~~of application~~.

m. For non-payment of that portion of the bill rendered by the ~~local Company~~utility for telecommunications service billed for another ~~telecommunications common carrier~~ utility.

n. Without notice, in the event of a ~~COCOT~~ PSP violation of a Commission Order of which the ~~COCOT~~ PSP has been notified and has failed to correct the violation within the amount of time specified in such notification.

103-~~626~~625. Insufficient Reasons for Denying Service.

The following shall not constitute cause for refusal of service to a ~~present or~~ prospective or existing customer:

a. Non-payment for services by a previous ~~occupant~~ customer residing at~~of~~ the premises to be served, unless such previous ~~occupant shall~~customer will benefit from such new service or unless the prospective or existing customer ~~new occupant~~ benefited from such old service.

b. Failure to pay for merchandise purchased from the utility.

c. Failure to pay for ~~non-communications service provided by the utility, including, but not limited to,~~ any non-regulated ~~telecommunications~~ equipment or services furnished by the ~~company~~utility.

d. Failure to pay for business service at a different location and a different telephone number shall not constitute sufficient cause for refusal of residential service or vice versa.

~~e. Failure to pay billings associated with 900 and 900-type numbers or non-regulated charges.~~

103-~~627~~626. Rights of Access.

The authorized agents of the utility shall have the right of access to the premises supplied with telephone service, at reasonable hours, for the purpose of maintenance, removal and inspection or for any other purpose which is proper and necessary in the conduct of the utility's business.

~~103-628. Customer Complaints.~~

~~Complaints concerning the charges, practices, facilities, or service of the utility shall be investigated promptly and thoroughly. The utility shall keep such records of customer complaints as will enable it to review and analyze its procedures and actions.~~

103-~~629~~627. Tariffs, Rules and Regulations.

~~A~~Each utility must make a copy of the utility's tariffs as filed with ~~this~~ the Commission ~~and the utility's rules and regulations as provided for in R.103-605 shall be on file in the local business offices of the utility and shall be~~ available for inspection ~~of~~ by the public.

~~103-630. System Which Utility Must Maintain.~~

~~Each utility, unless specifically relieved in any case by the Commission from such obligation, shall operate and maintain in safe, efficient and proper conditions, all of the facilities and instrumentalities used in connection with the furnishing of telephone service excluding customer provided equipment.~~

~~103-631. Directories.~~

~~Telephone directories shall be published at regular intervals, listing the name, address, and telephone numbers of all customers, except public telephone and telephone service unlisted at customer's request.~~

~~A. The utility shall list its customers with the directory assistance operators to provide the requested telephone numbers based on the customer's name and address when such requests are made by communication users, except public telephones and telephone service unlisted at customer's request.~~

~~B. Upon issuance, a copy of each directory shall be distributed to all customers served by that directory and copy of each directory shall be furnished to the Commission.~~

~~C. The name of the telephone utility, an indication of the area included in the directory and the month and year of issuance shall appear on the front cover. Information pertaining to emergency calls such as for the police and fire departments shall appear conspicuously in the front pages of the directory, and shall be provided without charge to the agency located within the utility's certificated area. Also, in the front portion of the directory shall appear the address and telephone number of the Public Service Commission.~~

~~D. The directory shall contain instructions concerning placing of long distance calls, calls to repair and directory assistance services, and locations and telephone numbers of telephone company business offices as may be appropriate to the area served by the directory.~~

~~E. Directory assistance operators shall have access to records of all telephone numbers in the area for which they are responsible for furnishing directory assistance service except telephone numbers not published at customer's request.~~

~~F. Each telephone utility shall make every effort to list its customers with directory assistance as necessary for the directory assistance operators to provide the requested telephone numbers based on customer names and service locations to minimize "not found" numbers where the address is different from the address normally associated with an exchange directory.~~

~~G. In the event of an error in the listed numbers of any customer, the telephone utility shall intercept all calls to the listed number for a reasonable period of time provided existing central office equipment will permit and the number is not in service. In such event of an error or omission in the name listing of a customer, such customer's correct name and telephone number shall be in the files of the directory assistance operators. The correct number furnished the calling party either upon request or interception.~~

~~H. Whenever any customer's telephone number is changed after a directory is published, the utility shall intercept all calls to the former number for a reasonable period of time, and give the calling party the new number provided existing central office equipment will permit, and the customer so desires.~~

~~I. When additions or changes in plant or changes to any other utility operations necessitates changing telephone numbers to a group of customers, reasonable notice shall be given to all customers so affected even though the additions or changes may be coincident with a directory issue.~~

~~J. Approval must be obtained from the Commission prior to a reduction in the size of print in the alphabetical section of the directory.~~

103-~~632~~629. 900 ~~& 900 Type~~ Services Offerings.

Any utility offering 900 services or billing for 900 services must comply with all applicable Federal Communications Commission and Federal Trade Commission rules.

~~The telephone utility may act as the carrier and bill for 900 and 900-type services subject to the following constraints:~~

~~103-632.1. No Denial of Service.~~

~~Telecommunications services may not be denied for dispute or nonpayment of 900 and 900-type services.~~

~~103-632.2. Safeguards for Children's Programs.~~

~~Safeguards shall be utilized to protect against abuses directed at children. These safeguards shall include:~~

~~(a) mandatory preambles.~~

~~(b) appropriate indications to children, both in the program's promotion and preamble, that their parent's or guardian's permission must be received.~~

~~(c) programming directed at children shall not include the enticement of a gift or premium.~~

~~103-632.3. Preambles~~

~~Preambles will be used for all children's programs. All other 900 programs, except for flat rated calls whose price does not or cannot exceed $2.00 per call, shall require a preamble. End users shall not be charged for the preamble. The time duration of the preamble shall be adequate to inform the caller of the nature and cost of the call, and allow the caller the opportunity to disconnect prior to the commencement of charges.~~

~~103-632.4. Availability of 900 Access.~~

~~(a) When and where technically feasible, the local exchange company shall offer one time free set up for access or blocking of all 900 and 900-type services to its customers. Subscribers shall be given this option at the time service is established. New customers who do not indicate a choice will automatically be blocked. Any subsequent subscriber request for a change in the status of that customer's access to 900 and 900-type services will require the imposition of the Commission's approved tariffed service charge or charges. However, in situations where a customer choice is requested pursuant to a Commission authorized process (i.e., ballot or otherwise), no service charge shall be imposed on that customer.~~

~~(b) The local exchange company shall require written requests for unblocking. The company may further require that such requests be accompanied by appropriate subscriber identification.~~

~~(c) No monthly or other recurring charge shall be imposed to maintain blocking of or access to 900 and 900-type numbers.~~

~~(d) In situations where a subscriber is in arrears for 900 and 900-type services two times within a twelve month period (for reasons not involving a legitimate complaint), the local exchange company may initiate 900 number blocking of that account.~~

~~103-632.5.~~

~~Telecommunications carriers are prohibited from acting as billing and collection agents for 900 and 900-type services that are fraudulent, unfair, deceptive; or advertised, promoted or marketed in violation of South Carolina and Federal laws.~~

~~103-633. Procedures for Termination of Service.~~

~~Service may be terminated for non-payment of a bill, provided that the telephone utility has made a reasonable attempt to effect collection and has given the customer written notice that he has five days in which to make settlement on his account or have his service disconnected. Service will be terminated only on Monday through Thursday between the hours of 8:00 A.M. and 4:00 P.M., unless provisions have been made to have someone available to accept payment and reconnect service.~~

103-630. Customer's Right to Seek Assistance

Each utility must notify its customers that the utility is under the jurisdiction of the Commission and that its customers may, if necessary, seek assistance from the Office of Regulatory Staff regarding the utility's regulated operations or file a formal complaint with the Commission regarding the utility's regulated operations.

SUBARTICLE 4.

ENGINEERING

103-640. Requirements for Good Engineering Practice.

The plant of each utility shall be constructed, installed, maintained, and operated in accordance with accepted good engineering practices and regulations, included by reference as part of these rules as far as possible. Continuity of service, uniformity in quality of service furnished, and the safety of persons and property shall be maintained.

103-641. Acceptable Standards.

Unless otherwise specified by the Commission, each utility shall use the applicable provision in the publication listed below as standards of accepted good practices:

a. Latest edition of The National Electrical Safety Code.

~~103-642. Acceptable .~~

~~Telephony's Dictionary as published by Telephony Publishing Corporation, 55 East Jackson Blvd., Chicago, Illinois 60604.~~

103-~~643~~642. Adequacy of Service.

The capacity of the utility's plant shall be sufficiently large to meet all reasonably expected requests for service. See R.103-663(1).

103-~~644~~643. Inspection of Plant.

A. Each utility shall adopt a program of inspection of its plant in order to determine the necessity for replacement and repair. The frequency of various inspections shall be based on the utility's experience and accepted good practice.

B. Each ~~telephone~~ utility shall maintain its plant, equipment, and other facilities at all times in a reasonably adequate and serviceable condition consistent with the Commission's Rules and accepted industry standards.

~~C. The telephone equipment, apparatus and lines furnished by the telephone utility shall remain the property of the telephone utility, and no instrument, appliance or device of any kind not furnished by the telephone utility shall be attached to or in any way used in connection with such telephone equipment, apparatus, and lines, either directly or indirectly, by induction or otherwise, except in accordance with the guidelines contained in Part 68 of the Federal Communications Commission's Rules and Regulations. In the event any instrument, apparatus, or device of any kind other than that furnished by the telephone utility, or as excepted above, is attached to or connected with any part of its properties, the telephone utility shall have the right to remove such instrument, apparatus, or device in accordance with the applicable law.~~

103-~~645~~644. Hazardous Locations.

Explosive Atmospheres and Other Hazardous Locations.--No ~~telephone company~~utility shall be required to install or maintain any of its apparatus or equipment in explosive atmospheres, or at outdoor or other locations which, in its judgment, are not suitable for the location of its service and facilities.

103-~~646~~645. Emergency Operation.

A. ~~Telephone utilities~~ Each utility shall make reasonable provisions to meet emergencies resulting from failures of lighting or power services, unusual and prolonged increases in traffic, illness of personnel, or from fire, storm, or other acts of God. Each utility shall ~~and~~ inform its employees as to procedures to be followed in the event of emergency in order to prevent or minimize interruption or impairment of telecommunications service.

B. Each central office shall contain as a minimum two hours of battery reserve. All central offices shall make adequate provisions for emergency power. In offices without installed emergency power facilities, there shall be a mobile power unit available which can be delivered and connected within the period of the battery reserve and can maintain the office for an extended period of time.

~~C. In exchanges exceeding 5,000 lines, a permanent auxiliary power unit shall be installed.~~

SUBARTICLE 5.

INSPECTION AND TESTS

103-650. Utility Inspection and Test.

~~A.~~ Each utility shall adopt a program of periodic tests, inspections, and preventive maintenance aimed at achieving efficient operation of its system and the rendition of safe, adequate and continuous service.

~~B. Each utility shall maintain or have access to test facilities enabling it to determine the operating and transmission capabilities of all equipment and facilities provided by the utility both for routine maintenance and for trouble location. The actual transmission performance of each telephone network shall be monitored in order to determine if the established objectives and operating requirements are met. This monitoring function shall consist of circuit order tests prior to placing trunks in service, routine periodic trunk tests, periodic noise tests of a sample of customer loops in each exchange, and special transmission surveys of the telephone network.~~

103-651. ~~Commission~~ Office of Regulatory Staff Inspection and Test.

When inspections, audits, or examinations ~~tests~~ are conducted by the Office of Regulatory Staff ~~Commission, its staff or representatives,~~ to ensure or determine if the provision of these rules herein contained are being adhered to, each ~~telephone~~ utility shall assist with such test as requested provided such request is in accordance with all legal requirements and sanctions.

~~103-652. Testing Facilities.~~

~~A.~~B. Each utility shall, unless specifically excused by the Commission, provide such instruments and other equipment and facilities as may be necessary to make the tests required of it by these rules or other orders of the Commission. The apparatus and equipment so provided shall be available at all times for inspection by any member or authorized representative of the Commission.

~~B. Each utility shall make such tests as are prescribed under these rules with such frequency and in such manner and at such places as is herewith provided or as may be approved or ordered by the Commission.~~

103-~~653~~652. Trouble Reports.

A. Each utility shall provide for the receipt of customer trouble reports at all hours and make a full and prompt investigation of all ~~complaints~~ trouble reports. Each utility shall maintain an accurate record of trouble reports made by its customers. This record shall include appropriate identification of the customer or service affected, the time, date, and nature of the report, the action taken to clear trouble~~ or satisfy the complaint~~, and the date and time of trouble clearance or other disposition. This record shall be available to the ~~Commission~~ Office of Regulatory Staff or its authorized representatives upon request at any time within the period prescribed for retention of such records.

B. Provisions shall be made to clear all trouble of any emergency nature at all hours, consistent with the needs of customers.~~ and~~

C. Unless the customer agrees to another arrangement, ~~P~~provisions shall be made to normally clear all other out-of-service troubles not requiring unusual repair, such as cable failures, within 24 hours of the report received by the utility excluding ~~Sundays~~weekends and holidays~~ unless the customer agrees to another arrangement~~.

D. Provisions shall be made to keep all commitments to customers. If unusual repairs are required, or other factors preclude clearing of reported trouble promptly, reasonable efforts shall be made to notify affected customers.

E. A utility operating under South Carolina Code Annotated Section 58-9-575, 58-9-576, 58-9-577, or 58-9-585 may comply with this rule by developing and maintaining internal measurements regarding trouble reports regarding regulated services and by making available to the Commission reports of these internal measurements.

103-~~654~~653. Maintenance of Plant and Equipment.

~~A.~~ Each ~~telephone~~ utility shall adopt and pursue a maintenance program aimed at achieving efficient operation of its system so as to permit the rendering of safe, adequate and continuous service at all times.

~~B. Maintenance shall include keeping all plant and equipment in a good state of repair consistent with safety and the adequate service performance of the plant affected, such as:~~

~~1. Broken, damaged, or deteriorated parts which are no longer serviceable shall be repaired or replaced.~~

~~2. Adjustable apparatus and equipment shall be readjusted as necessary when found to be in an unsatisfactory operating condition.~~

~~3. Electrical faults, such as leakage or poor insulation, noise induction, crosstalk, or poor transmission characteristics shall be corrected to the extent practicable.~~

SUBARTICLE 6.

STANDARDS AND QUALITY OF SERVICE

~~103-660. Quality of Service.~~

~~It shall be the obligation of each telephone utility, dependent upon their ability to procure and retain suitable facilities and rights for the construction and maintenance of the necessary circuits, to furnish reasonably adequate telephone service to telephone customers in the area or territory in which it operates. Such service is to be rendered according to lawfully established and approved rates and charges for the specific territory involved.~~

103-~~661~~660. Interruptions of Service.

A. Each utility shall make reasonable efforts to avoid interruptions of service, but when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety.

B. Planned interruptions shall be made at a time that will not cause unreasonable inconvenience to customers and shall be preceded by adequate notice to those who will be affected.

~~C. Each utility shall notify the Commission of any major service outage affecting over ten percent (10%) of its subscribers in a given area (see also R.103-614). The information shall be made available in written form upon request.~~

103-~~662~~661. Restrictions on Use of Service.

Each utility may impose reasonable restrictions on the use of telephone service during periods of excessive demand or other difficulty which jeopardizes the quality of service to any group of customers.

~~103-663. Service Standards.~~

~~103-663.1. Availability of Service.~~

~~Orders for new service, where all tariff requirements have been met, shall be completed within the interval shown below after receipt of the application, excepting those where a later date is requested by the customer or where special equipment or service is involved:~~

~~A. Service Orders for Installation and Re-installations: 85% within 5 working days~~

~~B. Commitments fulfilled: 85% Commitments shall be made for a specific day.~~

~~103-663.2. Equipment Requirements.~~

~~A. The central office and interoffice trunk equipment shall be maintained so as to meet the following standards during an average business day (8:00 AM to 5:00 PM):~~

~~Failure rate on intra-office calls--1.5%~~

~~Failure rate on interoffice calls--3%~~

~~The failure rate for interoffice calls applies to EAS and multi-office trunking calls but not to toll calls.~~

~~B. The central office and interoffice trunk standards are the objectives to be used by the Commission staff when testing. The telephone utilities are not required to perform tests or maintain records of these items.~~

~~103-663.3. Subscriber Loop Transmission Objectives.~~

~~The following standards are objectives to be used by the Commission Staff during testing at the subscriber's station protector. Acceptable measurements are:~~

~~DC Line Current: greater than 20 mA~~
~~Circuit Loss: less than 8.5 db~~
~~Circuit Noise: less than 20 dBrnC~~
~~Power Influence: less than 90 dBrnC~~
~~Balance greater than 60 dB (Where Balance (dB) = Power Influence - Circuit Noise)~~

~~103-663.4. Dialtone.~~

~~Central office equipment shall be maintained so as to meet the following standards:~~

~~98% of all calls shall receive dialtone within three (3) seconds.~~

~~103-663.5. Answering Time.~~

~~Each telephone utility shall provide adequate personnel and equipment so as to meet the following service objectives under normal operating conditions:~~

~~a. Toll and operator assistance calls answered within 10 seconds (does not include directory assistance calls): 90%~~

~~b. Calls to repair service answered within 20 seconds: 90%~~

~~c. Directory assistance answered within 30 seconds: 80%~~

~~103-663.6. Customer Trouble Reports.~~

~~A. Service by each utility shall be such that the number of customer trouble reports per 100 total access lines in service per month shall not exceed the following:~~

~~EXCHANGE/REPORTING GROUP~~

~~SIZE OBJECTIVE~~

~~OVER 7,500 ACCESS LINES 5.0~~

~~UNDER 7,500 ACCESS LINES 7.0~~

~~Unusual situations caused by storms, unavoidable casualties or other conditions causing an excess number of reports should be explained in the trouble report.~~

~~B. A customer trouble report is any oral or written notice received by the utility (other than problems detected by the utility's internal diagnostics) indicating difficulty or dissatisfaction with the performance, physical condition, location or appearance of the utility's regulated telephone plant or equipment.~~

~~103-663.7. Customer Out of Service Trouble Clearing Time.~~

~~Provisions shall be made to normally clear all out of service troubles within twenty-four hours of the reported time to the utility, excluding weekends and holidays, unless the customer agrees to another arrangement. The out of service trouble clearing time objectives for telecommunications utilities is 85% within 24 hours.~~

SUBARTICLE 7.

SAFETY

~~103-670. Acceptable Standards.~~

~~As criteria of accepted good safety practice the Commission will use the applicable provisions of the standard listed in 103-641.~~

103-671. Protective Measures.

Each utility shall exercise reasonable care to reduce the hazards to which its employees, its customers and the general public may be subjected.

103-672. Safety Program.

Each utility shall adopt and execute a safety program fitted to the size and type of its operation.

SUBARTICLE 8.

TELECOMMUNICATION RELAY SERVICE ADVISORY COMMITTEE

103-680. Role of the Advisory Committee.

The Telecommunication Relay Service Advisory Committee shall monitor the establishment, administration, and promotion of the telecommunications relay service, and advise the Commission on ways the service may be enhanced to better meet the communication needs of the hearing and speech impaired.

103-681. ~~[~~Committee Name~~]~~.

The Advisory Committee shall be known as the Telecommunications Relay Service (TRS) Advisory Committee.

103-682. Composition of the TRS Advisory Committee.

1. The TRS Advisory Committee shall be comprised of members ~~from the agencies~~ as designated by statute.

2. The TRS Advisory Committee shall select a person from among its members to serve as chairman.

3. Members of the TRS Advisory Committee shall serve at the pleasure of the Commission.

4. Members of the TRS Advisory Committee shall serve without compensation.

103-683. Meetings.

1. The TRS Advisory Committee shall meet no less than once per quarter. Other meetings ~~shall~~ may be called at the discretion of the chairman.

2. Meetings shall be publicly noticed as far in advance as is practicable.

3. The chairman shall ensure that a qualified interpreter(s) is present at all called meetings.

103-684. Commission Approval.

1. The Commission anticipates that the TRS Advisory Committee shall make all decisions which are necessary to perform its functions as specified in 103-680. However, the Commission retains its right to review and approve the decisions of the TRS Advisory Committee.

2. The Commission Staff TRS Advisory Committee members, or any other committee members, may require that committee recommendations be approved by the Commission.

3. The Commission must approve any and all proposed expenditures from the operating fund.

TELEPHONE UTILITY REGULATIONS OF THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

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ARTICLE 6.

TELEPHONE UTILITIES

SUBARTICLE 1.

GENERAL

103-600. Authorization of Rules.

A. Section 58-9-810 of the Code of Laws of South Carolina, 1976, provides:

"The Commission may make such rules and regulations not inconsistent with law as may be proper in the exercise of its powers or for the performance of its duties under Articles 1 through 13 of this chapter, all of which shall have the force of law."

In accordance with the above provisions, the Public Service Commission has adopted the following rules, regulations, and standards to govern telephone service that is under the jurisdiction of the Commission and that is offered by telephone utilities. Such rules shall become effective insert effective date.

All previous rules and regulations or standards are hereby annulled, revoked and superseded.

B. The adoption of these rules shall in no way preclude the Public Service Commission from altering, amending or revoking them in whole or in part, or from requiring any other or additional service, equipment, facility or standard, either upon complaint or upon its own motion, or upon the application of any utility.

103-601. Application of Rules.

1. Jurisdiction. To the extent allowed by law, these rules and regulations shall apply to any individual, firm, partnership, cooperative, corporation, association, establishment, or governmental subdivision which is now or may hereafter become engaged as a telephone utility under the jurisdiction of the Commission and in the business of furnishing retail telecommunications service that is regulated by the Commission to any retail customer within the State of South Carolina and to the retail customers of such utility.

2. Purpose. These rules and regulations are intended to define good practices. They are intended to insure the availability of adequate and reasonable basic local exchange telephone service. The utilities shall assist the Commission with the implementation of these rules and regulations.

3. Waiver of Rules. In any case where compliance with any of these rules and regulations introduces unusual difficulty or where circumstances indicate that a waiver of one or more rules or regulations is otherwise appropriate, such rule or regulation may be waived by the Commission upon a finding by the Commission that such a waiver is not contrary to the public interest.

103-602. Definitions.

The following words and terms, when used in these rules and regulations, shall have the meaning indicated below.

103-602.1. Access Line.

The circuit between a subscriber's standard interface located on the subscriber's premises and the central office.

103-602.2. Commission.

The Public Service Commission of South Carolina.

103-602.3. Utility.

A telephone utility as defined in S.C. Code Ann. §58-9-10(6).

103-602.4. Customer.

Any person, firm, association or corporation, or any agency of the Federal, State or local government, being provided retail telecommunications service by a utility.
103-602.5. Standard Network Interface.

The point of demarcation between utility-owned facilities and customer-owned wiring and/or equipment.

103-602.6. Interexchange Carrier.

Carrier authorized by the Commission to provide services related to long distance services.

103-602.7. PSP.

Payphone Service Provider.

103-602.8. Radio Common and Cellular Carrier.

A mobile telecommunications carrier licensed by the Federal Communications Commission ("FCC") and authorized by the FCC to receive and transmit signals from mobile transmitter within a specified geographic area.

103-502.9. Written

Written includes, without limitation, electronic transmissions.

103-603. Authorization for Rates and Charges.

A. Unless they are exempt from such approval by statute, Commission order, or other provision of law, no schedules of rates, tariffs nor contracts involving rates under the jurisdiction of this Commission shall be changed until after the proposed change has been approved by the Commission.

B. Unless they are exempt from such approval by statute, Commission order, or other provision of law, all rates, tolls, charges and contracts involving rates under the jurisdiction of this Commission proposed to be put into effect by any utility shall be first approved by this Commission before they shall become effective,

C. Unless otherwise provided by statute, Commission order, or other provision of law, no rate, toll charge, nor contract involving rates under the jurisdiction of the Commission of any utility shall be deemed approved nor consented to by the mere filing of a schedule or other evidence thereof in the offices of the Commission.

103-604. Territory and Certificated Area.

Unless otherwise provided by statute, Commission order, or other provision of law, each utility shall provide service only within the areas authorized by the Commission.

103-605. Utility Rules, Regulations, Operating Procedures, Policies, and Instructions.

A utility may adopt rules, regulations, operating procedures, policies and instructions addressing the regulated services it offers to customers. Unless otherwise provided by statute, Commission order, or other provision of law, such rules, regulations, operating

procedures, policies and instructions must comply with the rules, regulations, and orders of this Commission; and are subject to review by the Commission.

SUBARTICLE 2.

RECORDS AND REPORTS

103-610. Location of Records and Reports.

All records required by these rules or necessary for the administration thereof shall be available for examination by the Office of Regulatory Staff or its authorized representatives at all reasonable hours.

103-611. Retention of Records.

Retention of records shall be as specified in the Federal Communications Commission's Rules and Regulations, Part 42, unless otherwise directed by the Commission. Further, each utility shall maintain sufficient records necessary to verify and substantiate all requirements included in these rules. These records include, but are not limited to, trouble reports, service orders, itemized customer billing records, customer deposits, and complaints.

103-612. Data to be Filed with the Commission.

Each utility shall file with the Commission the following documents and information:

1. Annual Report. Each utility operating in the State shall file an annual report with this Commission giving such information as the Commission may direct. A utility operating under South Carolina Code Annotated Section 58-9-575, 58-9-576, 58-9-577, or 58-9-585 may comply with this requirement by filing with the Commission copies of the annual report(s) it submits to the Federal Communications Commission ("FCC").

2. Current Information and Documents. The information required under this Section shall be kept current at all times.

2.1. Tariffs. Unless otherwise required by law, each utility shall file tariffs addressing the regulated services offered by the utility. Such tariffs shall include:

a. the terms and conditions under which the utility provides the services.

b. the types, classes, grades, classifications and forms of services offered.

c. A list of the items which the utility furnishes, owns and maintains on the customers' premises, for which a charge is made.

d. The nonrecurring charges, the recurring charges, and the termination charges, if any, that apply to the services.

2.2. Operating Area Maps. Each utility shall file with the Commission a map or maps showing its Commission-approved area of operation and/or exchange service area(s).

2.3. Authorized Utility Representative. Each utility shall maintain with the Commission the name, title, address, and telephone number of the person(s) who should be contacted in connection with all matters related to the utility's operations in this State.

2.4. Number of local exchange access lines. No later than March 15 of each year, each local exchange carrier, as defined in S.C. Code Ann. §58-9-10(12), must report to the Commission the total number of access lines providing local exchange telecommunications services to an end user in the State of South Carolina.

103-613. Interruption of Service.

Each utility shall keep a record of any condition resulting in any interruption of service affecting its entire system or major division of a telephone exchange, including a statement of the time, duration, cause of any such interruption, and steps taken to correct the interruption. The Commission shall be notified of any such interruption, if that interruption exceeds one hour, as soon as practicable. (See R.103-661). A copy of any written report submitted to any Federal jurisdictional entity shall also be submitted with the Commission.

103-614. Accidents.

Each utility shall maintain adequate and accurate records of each accident happening in connection with the operation of its property, facilities, or service wherein any person shall have been killed or whereby any serious property damage shall have been caused.

103-615. Office of Regulatory Staff Complaints.

A. Each utility shall keep a record of all written complaints received from the Office of Regulatory Staff. This record shall show the name and address of the complainant, the date, the nature of the complaint, and the adjustment or disposal thereof. Except in cases of high toll usage, if the utility is given at least four hours notice of the written compliant, the utility shall not terminate service to a complainant until an answer to the complaint is conveyed to the Office of Regulatory Staff. A written or oral response is allowable for complaints that the utility wishes to dispose of immediately. The use of an oral response does not preclude supplying the Office of Regulatory Staff with a written response to written complaints.

B. In order to assist the Commission in complying with the requirements of S.C. Code Ann. §58-9-280(G)(3), the Office of Regulatory Staff must maintain a copy of all written complaints received regarding the impact broadband service may be having on the

competitive local exchange market. This information must be compiled and made available to the Commission by April 15 of each year.

103-615.1. Customer Complaints.

Each utility shall investigate customer complaints concerning the regulated charges, practices, facilities, or service of the utility promptly and thoroughly. Each utility shall respond to such complaints in a timely and thorough manner. The utility shall keep such records of customer complaints as will enable it to review and analyze its procedures and actions. .

103-616. Tests.

Unless otherwise directed by the Commission, each utility shall keep a record of all test procedures performed as a result of these rules.

103-617. Network Service Reports.

Within 30 days of written request by the Commission, each utility must make the following service reports available to the Commission, and must provide such reports to the Office of Regulatory Staff.

A. Trouble reports per hundred access lines:

The report shall contain the number of actual customer trouble reports received per hundred access lines for the utility's regulated operations.

B. Customer out of service trouble clearing times:

The report shall contain the percentage number of out of service reports cleared within twenty four (24) hours, excluding weekends and holidays.

C. A utility operating under South Carolina Code Annotated Section 58-9-575, 58-9-576, 58-9-577, or 58-9-585 may comply with this rule by developing and maintaining internal measurements that track the network service quality the utility provides to its customers with regard to regulated services and by making available to the Commission reports of these internal measurements.

103-618. Held Applications/Availability of Service.

A. Within 60 days of written request by the Commission, each utility must make the following service reports available to the Commission, and must provide reports to the Office of Regulatory Staff that indicate:

a. The number of applications for new regulated services held over thirty (30) days.

b. The percentage of regulated service orders for installations and re-installations completed within five (5) working days.
c. The percentage of commitments fulfilled for regulated services.

B. A utility operating under South Carolina Code Annotated Section 58-9-575, 58-9-576, 58-9-577, or 58-9-585 may comply with subsection A. of this rule by developing and maintaining internal measurements that track the availability of its regulated services to its customers and by making available to the Commission reports of these internal measurements.

SUBARTICLE 3.

CUSTOMER RELATIONS

103-619. Customer Information.

Each utility shall:

a. Maintain up-to-date maps, plans, or records of its entire system, with other information as may be necessary to enable the utility to advise prospective customers, and others entitled to the information, as to the facilities available for serving customers within its operating area.

b. Unless otherwise provided by law, if so directed by the Commission, notify by mail or electronically each customer affected of any proposed changes in rates and charges. The utility shall furnish a certification that this notice requirement has been met to the Commission.

c. Upon request, furnish information as to the utility's billing procedures to a customer.

d. Provide adequate means whereby each customer can contact repair service at all hours.

e. Furnish such additional reasonable information as customers may request.

103-620. Customer Deposits.

A. Each utility may require from any customer or from any prospective customer, a deposit intended to guarantee payment of bills for regulated service, if any of the following conditions exist:

1. The utility determines, through use of commercially acceptable methods, that the customer's credit and financial condition so warrants; or

2. The customer's gross monthly billing increases; or

3. The customer has had two 30-day arrearages in the past 24 months or the customer has been sent two or more late payment notices in the past 9 months; or

4. A new customer cannot furnish an acceptable co-signer or guarantor who is a customer of the utility within the State of South Carolina to guarantee payment, or

5. A customer has had his service terminated by any utility for non-payment or fraudulent use.

B. A utility is not required to install new service to a customer prior to the utility's receipt of any deposit that is required of that customer.

103-620.1. Deposit Receipt.

Each utility shall maintain records of each deposit it receives from a customer and shall provide means whereby a customer may establish a claim regarding a deposit.

103-620.2. Amount of Deposit.

A. Security deposits must not exceed two months' estimated billing. For an existing customer, estimated billing is calculated based upon the highest amount of the customer's previous six (6) month's current billing, including toll and taxes. For a new customer, estimated billing is calculated based on all information available to the utility at the time the deposit is calculated.

B. All deposits may be subject to review based on the actual experience of the customer. The amount of the deposit may be adjusted upward or downward to reflect the actual billing experience, the payment habits, and the credit worthiness of the customer.

103-620.3. Interest on Deposits.

A. Simple interest on deposits at a rate no less than that prescribed by the Commission shall be paid by the utility to each customer required to make such deposit for the time it is held by the utility.

B. The interest shall accrue annually and payment of such interest shall be made to the customer at least every two (2) years and at the time the deposit is returned.

C. The utility is not required to pay interest on the deposit beyond the date it is returned, the date service is terminated, the date the customer files for bankruptcy, or on the date notice is sent to the customer's last known address that the deposit is no longer required.

103-620.4. Deposit Retention.

Deposits shall be refunded completely with interest after two years unless the customer has had two 30-day arrearages in the past 24 months, or has had service denied or interrupted for non-payment of bills, or has been sent more than two late payment notices in he past 9 months, or has a returned check in the past 6 months.

103-620.5. Unclaimed Deposits.

A record of each unclaimed deposit must be maintained for at least two years, during which time the utility shall make a reasonable effort to return the deposit. Unclaimed deposits, together with accrued interest, shall be treated in accordance with law.

103-620.6. Deposit Credit.

If a customer has been required to make a deposit, that deposit shall not relieve the customer of the obligation to pay the service bill when due, but where such deposit has been made and service has been disconnected because of nonpayment of account, then unless the customer shall, within seventy-two hours after service has been disconnected, apply for reconnection of service and pay the account, the account may be discontinued. If the utility discontinues the account, the utility shall apply the deposit of such customer toward the discharge of such account and shall refund to the customer any excess.

103-621. Customer Billing.

Every utility shall render each customer an accurate and timely bill.

103-621.1. Bill Forms.

Each utility's bill must comply with the Federal Communications Commission's "Truth in Billing Requirements" that are in effect at the time the utility's bill is prepared.

103-621.2. Late Payment Charges.

A utility may add a late payment charge as set forth in its tariffs.

103-621.3. Disconnection and Reconnection.

Whenever regulated service is denied or discontinued for any appropriate reason, the utility may make a tariffed charge for costs incurred in disconnecting or discontinuing the regulated service and reconnecting it after restoration and may require payment for service not previously billed.

103-621.4. Payment by Check.

The utility, at its option for good cause, may refuse to accept a check tendered as payment on a customer's account.

103-621.5. Payment of Past-Due Amounts for Residential Regulated Services.

The utility may, by tariff, provide for the arrangement of a plan to enable a residential customer to make payment of past-due amounts for regulated services by installments.

103-622. Adjustment of Bills.

Billing errors for regulated services shall be handled in the following manner:

103-622.1. Customer Willfully Overcharged.

If the utility has willfully overcharged any customer, the utility shall refund the difference, plus interest, as prescribed by the Commission, for the period of time that can be determined that the customer was overcharged.

103-622.2. Customer Inadvertently Overcharged.

If the utility has inadvertently overcharged a customer, the utility must, at its option, credit the customer's bill or give a refund in the excess amount paid by that customer as follows:

a. If the interval during which the customer was overcharged can be determined, then the utility shall credit or refund the excess amount charged during the interval, provided that the applicable statute of limitations shall not be exceeded.

b. If the interval during which the customer was overcharged cannot be determined then the utility shall credit or refund the excess amount charged during the 6-month period preceding the date when the error was discovered.

c. If the exact amount of the overcharge incurred by the customer during the billing periods subject to adjustment cannot be determined, then the credit or refund shall be based on an appropriate estimated amount of excess payment.

103-622.3. Customer Undercharged Due to Willfully Misleading the Utility.

If the utility has undercharged any customer as a result of a fraudulent or willfully misleading action of that customer, or any action by any person (other than the employees or agents of the utility), such as tampering with the facilities, when it is evident that such tampering or bypassing occurred during the residency of that customer, or if it is evident that a customer has knowledge of being undercharged without notifying the utility of such, then the utility shall recover the deficient amount provided as follows:

a. If the interval during which the customer was undercharged can be determined, then the utility shall collect the deficient amount incurred during the entire interval, provided the applicable statute of limitations is not exceeded.

b. If the interval during which the customer was undercharged cannot be determined, then the utility shall collect the deficient amount incurred during the 12-month period preceding the date when the billing error was discovered by the utility.

103-622.4. Customer Undercharged Due to Inadvertence

If the utility has inadvertently undercharged any customer, the utility may recover the deficient amount as follows:

a. If the interval during which a customer was undercharged can be determined, then the utility may collect the deficient amount incurred during the entire interval, provided that the applicable statute of limitations shall not be exceeded.

b. If the interval during which a customer was undercharged cannot be determined, then the utility may collect the deficient amount incurred during the 6-month period preceding the date when the billing error was discovered by the utility.

c. The customer shall be allowed to pay the deficient amount, in equal installments added to the regular monthly bills devoid of late charges, over the same number of billing periods which occurred during the interval the customer was subject to pay the deficient amount.

103-623. Applications for Regulated Service.

103-623.1. Method.

Applications for service may be oral or written.

103-623.2. Obligation.

At the option of the utility, an applicant may be required to sign a service agreement or a contract. In the absence of such service agreement or contract, the accepted application shall constitute a contract between the utility and the applicant, obligating the applicant to pay for service in accordance with the utility's tariff currently on file with the Commission, and to comply with the Commission's and the utilities' rules and regulations.

103-623.3. Termination.

When a customer desires to have his service terminated, he must notify the utility. Such notification may be oral or written. The utility shall be allowed a reasonable period of time after the receipt of such notice to terminate the service.

103-624. Reasons for Denial or Discontinuance of Service.

Service may be refused or discontinued for any of the reasons listed below, for any reason set forth in the utility's tariffs, or for any reason set forth in the utility's individual contracts for services. Unless otherwise stated, the customer shall be allowed a reasonable time in which to comply with the rule before service is discontinued.

a. Without notice, in the event of a condition determined by the utility to be hazardous or dangerous.

b. Without notice, in the event of customer use of equipment in such a manner as to adversely affect the utility's service to others.

c. Without notice, in the event of unauthorized use of telephone service.

d. For the customer tampering with equipment furnished and owned by the utility.

e. For violation of and/or non-compliance with the Commission's Orders or regulations governing service supplied by the utilities.

f. For failure of the customer to fulfill his contractual obligations for service and/or facilities subject to regulation by the Commission.

g. For failure of the customer to permit the utility reasonable access to its equipment.

h. In cases involving abnormal and excessive use of toll service, service may be denied twenty-four (24) hours after written notice is given to the customer, unless satisfactory arrangements for payment are made.

i. For failure of the customer to provide the utility with a deposit as authorized by 103-621(1).

j. For failure of the customer to furnish permits, certificates, and/or right-of-ways, as necessary to obtain service, or in the event such permissions are withdrawn or terminated.

k. Where there is probable cause to believe that there is illegal or willful misuse of utility's service.

l. If a prospective or existing customer is indebted under an undisputed bill to such utility for regulated service previously furnished such customer or furnished any other member of such customer's household. However, for the purposes of this regulation, the utility may not consider any indebtedness which was incurred by such customer or any member

of his household more than six (6) years prior to the time of the contemplated refusal or discontinuance of service. .

m. For non-payment of that portion of the bill rendered by the utility for telecommunications service billed for another utility.

n. Without notice, in the event of a PSP violation of a Commission Order of which the PSP has been notified and has failed to correct the violation within the amount of time specified in such notification.

103-625. Insufficient Reasons for Denying Service.

The following shall not constitute cause for refusal of service to a prospective or existing customer:

a. Non-payment for services by a previous customer residing at the premises to be served, unless such previous customer will benefit from such new service or unless the prospective or existing customer benefited from such old service.

b. Failure to pay for merchandise purchased from the utility.

c. Failure to pay for any non-regulated equipment or services furnished by the utility.
d. Failure to pay for business service at a different location and a different telephone number shall not constitute sufficient cause for refusal of residential service or vice versa.

103-626. Rights of Access.

The authorized agents of the utility shall have the right of access to the premises supplied with telephone service, at reasonable hours, for the purpose of maintenance, removal and inspection or for any other purpose which is proper and necessary in the conduct of the utility's business.

103-627. Tariffs, Rules and Regulations.

Each utility must make a copy of the utility's tariffs as filed with the Commission available for inspection by the public.

103-629. 900 Services Offerings.

Any utility offering 900 services or billing for 900 services must comply with all applicable Federal Communications Commission and Federal Trade Commission rules.

103-630. Customer's Right to Seek Assistance

Each utility must notify its customers that the utility is under the jurisdiction of the Commission and that its customers may, if necessary, seek assistance from the Office of Regulatory Staff regarding the utility's regulated operations or file a formal complaint with the Commission regarding the utility's regulated operations.

SUBARTICLE 4.

ENGINEERING

103-640. Requirements for Good Engineering Practice.

The plant of each utility shall be constructed, installed, maintained, and operated in accordance with accepted good engineering practices and regulations, included by reference as part of these rules as far as possible. Continuity of service, uniformity in quality of service furnished, and the safety of persons and property shall be maintained.

103-641. Acceptable Standards.

Unless otherwise specified by the Commission, each utility shall use the applicable provision in the publication listed below as standards of accepted good practices:

a. Latest edition of The National Electrical Safety Code.

103-642. Adequacy of Service.

The capacity of the utility's plant shall be sufficiently large to meet all reasonably expected requests for service. See R.103-663(1).

103-643. Inspection of Plant.

A. Each utility shall adopt a program of inspection of its plant in order to determine the necessity for replacement and repair. The frequency of various inspections shall be based on the utility's experience and accepted good practice.

B. Each utility shall maintain its plant, equipment, and other facilities at all times in a reasonably adequate and serviceable condition consistent with the Commission's Rules and accepted industry standards.

103-644. Hazardous Locations.

Explosive Atmospheres and Other Hazardous Locations.--No utility shall be required to install or maintain any of its apparatus or equipment in explosive atmospheres, or at outdoor or other locations which, in its judgment, are not suitable for the location of its service and facilities.

103-645. Emergency Operation.

A. Each utility shall make reasonable provisions to meet emergencies resulting from failures of lighting or power services, unusual and prolonged increases in traffic, illness of personnel, or from fire, storm, or other acts of God. Each utility shall inform its employees as to procedures to be followed in the event of emergency in order to prevent or minimize interruption or impairment of telecommunications service.

B. Each central office shall contain as a minimum two hours of battery reserve. All central offices shall make adequate provisions for emergency power. In offices without installed emergency power facilities, there shall be a mobile power unit available which can be delivered and connected within the period of the battery reserve and can maintain the office for an extended period of time.

SUBARTICLE 5.

INSPECTION AND TESTS

103-650. Utility Inspection and Test.
Each utility shall adopt a program of periodic tests, inspections, and preventive maintenance aimed at achieving efficient operation of its system and the rendition of safe, adequate and continuous service.

103-651. Office of Regulatory Staff Inspection and Test.

When inspections, audits, or examinations are conducted by the Office of Regulatory Staff to ensure or determine if the provision of these rules herein contained are being adhered to, each utility shall assist with such test as requested provided such request is in accordance with all legal requirements and sanctions.

B. Each utility shall, unless specifically excused by the Commission, provide such instruments and other equipment and facilities as may be necessary to make the tests required of it by these rules or other orders of the Commission. The apparatus and equipment so provided shall be available at all times for inspection by any member or authorized representative of the Commission.

103-652. Trouble Reports.

A. Each utility shall provide for the receipt of customer trouble reports at all hours and make a full and prompt investigation of all trouble reports. Each utility shall maintain an

accurate record of trouble reports made by its customers. This record shall include appropriate identification of the customer or service affected, the time, date, and nature of the report, the action taken to clear trouble, and the date and time of trouble clearance or other disposition. This record shall be available to the Office of Regulatory Staff or its authorized representatives upon request at any time within the period prescribed for retention of such records.

B. Provisions shall be made to clear all trouble of any emergency nature at all hours, consistent with the needs of customers.

C. Unless the customer agrees to another arrangement, provisions shall be made to normally clear all other out-of-service troubles not requiring unusual repair, such as cable failures, within 24 hours of the report received by the utility excluding weekends and holidays.

D. Provisions shall be made to keep all commitments to customers. If unusual repairs are required, or other factors preclude clearing of reported trouble promptly, reasonable efforts shall be made to notify affected customers.

E. A utility operating under South Carolina Code Annotated Section 58-9-575, 58-9-576, 58-9-577, or 58-9-585 may comply with this rule by developing and maintaining internal measurements regarding trouble reports regarding regulated services and by making available to the Commission reports of these internal measurements.

103-653. Maintenance of Plant and Equipment.

Each utility shall adopt and pursue a maintenance program aimed at achieving efficient operation of its system so as to permit the rendering of safe, adequate and continuous service at all times.

SUBARTICLE 6.

STANDARDS AND QUALITY OF SERVICE

103-660. Interruptions of Service.

A. Each utility shall make reasonable efforts to avoid interruptions of service, but when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety.

B. Planned interruptions shall be made at a time that will not cause unreasonable inconvenience to customers and shall be preceded by adequate notice to those who will be affected.

103-661. Restrictions on Use of Service.

Each utility may impose reasonable restrictions on the use of telephone service during periods of excessive demand or other difficulty which jeopardizes the quality of service to any group of customers.

SUBARTICLE 7.

SAFETY

103-671. Protective Measures.

Each utility shall exercise reasonable care to reduce the hazards to which its employees, its customers and the general public may be subjected.

103-672. Safety Program.

Each utility shall adopt and execute a safety program fitted to the size and type of its operation.

SUBARTICLE 8.

TELECOMMUNICATION RELAY SERVICE ADVISORY COMMITTEE

103-680. Role of the Advisory Committee.

The Telecommunication Relay Service Advisory Committee shall monitor the establishment, administration, and promotion of the telecommunications relay service, and advise the Commission on ways the service may be enhanced to better meet the communication needs of the hearing and speech impaired.

103-681. Committee Name.

The Advisory Committee shall be known as the Telecommunications Relay Service (TRS) Advisory Committee.

103-682. Composition of the TRS Advisory Committee.

1. The TRS Advisory Committee shall be comprised of members as designated by statute.

2. The TRS Advisory Committee shall select a person from among its members to serve as chairman.

3. Members of the TRS Advisory Committee shall serve at the pleasure of the Commission.

4. Members of the TRS Advisory Committee shall serve without compensation.

103-683. Meetings.

1. The TRS Advisory Committee shall meet no less than once per quarter. Other meetings may be called at the discretion of the chairman.

2. Meetings shall be publicly noticed as far in advance as is practicable.

3. The chairman shall ensure that a qualified interpreter(s) is present at all called meetings.

103-684. Commission Approval.

1. The Commission anticipates that the TRS Advisory Committee shall make all decisions which are necessary to perform its functions as specified in 103-680. However, the Commission retains its right to review and approve the decisions of the TRS Advisory Committee.

2. The Commission Staff TRS Advisory Committee members, or any other committee members, may require that committee recommendations be approved by the Commission.

3. The Commission must approve any and all proposed expenditures from the operating fund.

PRACTICE AND PROCEDURE REGULATIONS OF THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

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ARTICLE 8.

PRACTICE AND PROCEDURE

SUBARTICLE 1.

GENERAL

103-800. Authorization.

A. In accordance with provisions of law, the Public Service Commission has adopted the following rules and regulations and fixed the following standards to govern the practice and procedures of parties before it, effective ~~December 31, 1976~~ **INSERT NEW DATE**. All previous rules or standards of practice and procedure are hereby revoked, annulled and superseded.

B. The adoption of these rules shall in no way preclude the Public Service Commission from altering, amending or revoking them in whole or in part, or from making additions thereto, pursuant to provisions of law, upon petition of a proper party or upon its own motion.

C. The adoption of these rules of practice and procedure shall not relieve either the Commission or any party participating in proceedings before it of any duties prescribed under the laws of this State.

103-801. Jurisdiction.

To the extent allowed by law, ~~T~~these rules shall apply to any individual, firm, partnership, cooperative, corporation, association, establishment, corporation, or governmental subdivision which participates in proceedings before the Public Service Commission ~~in formal or informal proceedings~~.

103-802. Purpose of Rules.

These rules are intended to define standards of proper practice before the Public Service Commission. They are intended to insure that all parties participating in proceedings before the Commission will be accorded the procedural fairness to which they are entitled by law. These rules are further intended to promote efficiency in, and certainty of, the

procedures and practices herein adopted. All parties participating in proceedings before the Commission shall assist the Commission in the implementation of these rules and regulations.

103-803. Waiver of Rules.

In any case where compliance with any of these rules and regulations produces unusual hardship or difficulty, or where circumstances indicate that a waiver of one or more rules or regulations is otherwise appropriate, the application of such rule or regulation may be waived by the Commission upon a finding by the Commission that such waiver is not contrary to ~~in~~ the public interest.

103-804. Definitions.

The following words and terms, when used in the context of these rules and regulations, shall have the meanings indicated.

A. Commission and Commissioner. The South Carolina Public Service Commission and a Commissioner thereof, respectively.

B. Presiding Officer. A Commissioner duly designated ~~or a hearing examiner, appointed and duly designated~~ by the Commission, who presides at proceedings before the Commission.

C. ~~Hearing Examiner. A member of the Commission staff, duly appointed and designated by the Commission to serve as a presiding officer for a formal proceeding before the Commission, and so serving as a presiding officer.~~ Hearing Officer. An attorney employed by the Commission who may, pursuant to provision of law: hear and determine procedural motions or other matters not determinative of the merits of the proceedings and made prior to hearing; at the hearing, make all rulings on nondispositive motions and objections; and, subject to being overruled by the Commission, rule on questions concerning the conduct of the case and the admission of evidence.

D. Staff Counsel. Legal Counsel of the Commission and Commission Staff.

E. Proceeding. The general process of the Commission's determination of the relevant facts and the applicable law, the consideration thereof and the action thereupon in regard to a particular subject matter within the Commission's jurisdiction, initiated by the filing of an appropriate pleading or issuance of a Commission order. ~~or rule to show cause. or by the receipt of oral or written communication by the staff. A proceeding may be formal or informal.~~

F. Pleading. Any document filed in a proceeding before the Commission, including complaint, answer, application, protest, motion (other than an oral motion made ~~at~~ during

a ~~formal~~ proceeding) or petition. **BELLSOUTH RECOMMENDS MODIFYING THIS DEFINITION CONSISTENT WITH THE SC RULES OF CIVIL PROCEDURE.**

G. Formal Record. The documentation pertaining to a proceeding before the Commission, including the following: the designation of the presiding officer; designation of the hearing officer, if any; proofs of publication and notification; all pleadings and intermediate rulings; the transcript or official recording of hearing which shall include all evidence received or considered; a statement of matters officially noticed; all questions and offers of proof, objections and rulings thereof; proposed findings and exceptions, if any; any decision, opinion or report by the presiding officer; all staff memoranda or data submitted to the hearing officer or members of the Commission in consideration of a proceeding; and the order(s) making final disposition of the matter.

H. Person. Any individual, partnership, corporation, association, establishment, governmental subdivision, or public or private organization of any character.

I. Party. Any person named or admitted by the Commission as a party to a ~~formal or informal~~ proceeding before the Commission, or properly seeking and entitled as of right to be admitted as a party to a ~~formal or informal~~ proceeding before the Commission.

~~J. Party of Record.~~ A party in a ~~formal~~ proceeding before the Commission ~~who~~ is entitled to receive all documentary materials, pleadings, orders or other dispositions of matters relevant to the proceeding. Parties ~~of record~~ will include applicants, complainants, defendants, respondents, and intervenors. Parties ~~of record~~ may file a petition for rehearing of Commission orders, pursuant to R. 103-880 et seq. ~~The Commission staff shall be considered a party of record for the purposes of filing and receipt of pleadings and documentary materials, data requests, and for the conduct of formal proceedings.~~

K. Applicant. A party on whose behalf an application is made to the Commission for any permission or authorization which the Commission may grant pursuant to statutory or other proper authority.

L. Complainant. A party who complains to the Commission of anything done, or omitted to be done, in contravention or violation of the provisions of any statute or other delegated authority administered by the Commission, or of any order, rule or regulation issued or promulgated thereunder, or any other alleged wrong within the jurisdiction of the Commission.

M. Intervenor. A party who files a petition to intervene in a proceeding before the Commission, as provided by R. 103-836, and after such petition is approved by the Commission or presiding officer. Admission as an intervenor shall not be construed as recognition by the Commission that such intervenor might be aggrieved by any order of the Commission in such proceeding.

~~N. Protestant. A party objecting on the ground of private or public interest to the approval of an application, petition, motion or other matter which the Commission may have under consideration. A protestant may offer sworn testimony without the privilege of cross-examination of witnesses offered by other parties. A protestant desiring to become an intervenor in a proceeding before the Commission may file a petition for intervention.~~

~~O~~N. Respondent. A party subject to any statute or other delegated authority administered by the Commission to whom an order~~,~~ or notice ~~or rule to show cause~~ is issued by the Commission instituting an investigation or a proceeding.

~~P~~O. Defendant. A party subject to statute or other delegated authority administered by the Commission, or any order, rule or regulation issued or promulgated thereunder, against whom any complaint is filed.

~~Q~~P. Petitioner. A party seeking relief from the Commission, and not otherwise designated herein.

~~R. Appearance. The act of offering sworn testimony in a formal proceeding before the Commission.~~

~~S~~Q. Representation.

(1) The act of serving as counsel for a party, or of serving as the authorized representative of a party, in a proceeding before the Commission. Representation of a party of record in a ~~formal~~ proceeding shall include the right to offer evidence on behalf of the party represented and to cross-examine witnesses offered by other parties. ~~Representation of a party other than a party of record in a formal proceeding shall consist of the right to offer evidence on behalf of the party represented without cross-examination of witnesses offered by other parties.~~ Those persons who may act in a representative capacity are the following:

(a) An individual may represent himself or herself in any proceeding before the Commission.

(b) An attorney authorized to practice law in the State of South Carolina may represent a party in any proceeding before the Commission. An attorney not authorized to practice before the courts of the State of South Carolina but authorized to practice before the courts of any other State may represent a party in any formal proceeding before the Commission upon association with an attorney admitted to practice before the courts of South Carolina.

(2) All persons acting in a representative capacity before the Commission shall be subject to any limitation imposed by statute or other proper authority.

~~T~~R. Order. A written decision or opinion issued by the Commission representing the whole or any part of the disposition (whether affirmative, negative, injunctive or declaratory in form) of a ~~formal~~ proceeding before the Commission.

~~U~~S. Rule. The whole or any part of a Commission statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure or practice requirements of the Commission.

~~V~~T. Rulemaking. The Commission process for the formulation, amendment or repeal of a rule.

~~W. Rule to Show Cause. An order issued by the Commission instituting a formal proceeding against a person under the Commission's statutory authority. Such rule shall set forth the grounds for such action, and will contain a statement of the particulars and matters concerning which the Commission seeks to inquire and which shall be deemed to be tentative and for the purpose of framing issues for consideration and decision of the Commission in the proceeding. Such rule shall require that the respondent named respond in writing, as the Commission may direct.~~

~~X. Data Request.~~

~~(1) A written request for information made by Commission staff and directed to another party or parties in the same proceeding. The Commission staff shall be considered a party for the submission and receipt of data requests.~~

~~(2) The Commission staff shall submit the original and two copies of the data request to the Executive shall send a copy to the party from whom the information is sought. The staff shall mail a copy of the data request to each party of record in the proceeding.~~

~~(3) The date for response to data requests shall be established therein and shall depend upon the nature, complexity and quantity of information sought and the scheduled hearing date. A data request may not be submitted less than ten (10) days prior to the hearing date set for a formal proceeding.~~

~~(4) Submission of a data request less than ten (10) days prior to a hearing or during the course of a hearing may be made only by agreement of the parties or at the discretion of the Commission.~~

~~(5) A party to whom a data request is submitted and from whom a response is required may file written objections to any portion of the data request. Such written objections shall state clearly the number of the item of information sought and shall give a concise statement of the reasons for the objections. After consideration of the data request and the objections, the Commission will make a determination whether a complete response shall be required to the item or items to which objections were made.~~

~~Y~~U. Public Records.

(1) Those official items of information within the files of the Commission which are available for inspection by the public. Public records include:

(a) Applications, complaints, petitions and other papers seeking Commission action;

(b) Financial, statistical and other reports to the Commission; rates and rate schedules; any other filings and submittals to the Commission in compliance with the requirement of any statute, Commission order, rule or regulation;

(c) All pleadings, notices, depositions and formal records in proceedings before the Commission;

(d) Any proposed testimony or exhibit filed with the Commission but not yet offered or received in evidence;

(e) All Commission orders, notices, findings, opinions, determinations, and other actions in proceedings and all Commission minutes which have been approved and filed with the ~~Executive Director~~Chief Clerk;

(f) All Commission correspondence relating to any furnishing of data or information;

(g) Commission correspondence relating to the interpretation or applicability of any statute, rule, regulation or order issued or administered by the Commission and letters of opinion on those subjects signed by Staff Counsel and sent to others than the Commission, a Commissioner, or any of the Commission's staff;

(h) Copies of all filings, certifications, pleadings, records, briefs, orders, judgments, decrees and mandates in court proceedings in which the Commission is a party and all correspondence with the Courts or clerks of court.

(2) The term Public Records does not include any information specifically exempted by statute or Commission order.

(3) Public Records are available for public inspection at the offices of the Commission, during the Commission's business hours. Copies of public records may be made available by the ~~Executive Director~~Chief Clerk for a reasonable charge.

~~Z~~V. Notice of Filing.

(1) A statement prepared by the ~~Executive Director~~Chief Clerk upon the filing of a pleading which initiates a ~~formal~~ proceeding, and which is provided to the party submitting the pleading. The Notice of Filing shall be published pursuant to R. 103-821C and shall otherwise be processed according to the Commission's Rules and Regulations concerning specific persons within the Commission's jurisdiction.

(2) The Notice of Filing shall contain a brief description of the pleading, reference to the statutory or other legal authority under which the pleading was filed, and the manner in which interested persons may file petitions to intervene or protests, and the return date.

~~AA~~W. Notice of Hearing.

(1) A statement prepared by the ~~Executive Director~~Chief Clerk which provides certain information relative to the public hearing scheduled in a ~~formal~~ proceeding before the Commission, and submitted to all parties in that proceeding. The Notice of Hearing shall be published, pursuant to applicable provisions of law.

(2) A Notice of Hearing shall include the following items of information:

(a) A statement of the date, time, and place of the public hearing;

(b) A reference to the legal authority under which the proceeding was instituted;

(c) A description of the subject and issues involved, and, in a rulemaking proceeding, the terms or substance of the proposed rule.

(3) At its discretion, the Commission may consolidate a Notice of Hearing with a Notice of Filing, and issue a Notice of Filing and Hearing, if the public interest so requires.

~~BB. Administrative Law Judge. An attorney appointed by the Commission and approved by the Attorney General of South Carolina that is responsible for presiding over certain rate hearings.~~

~~CC~~X. Executive Assistant to Commissioners. The responsibilities of the Executive Assistant to Commissioners are to advise the Commissioners and to serve as a liaison among the Commission, the Commission Staff, the Press, members of the public and the regulated companies. **THIS MAY OR MAY NOT NEED TO BE UPDATED.**

~~103-805. Appearance Bond.~~

~~(Statutory Authority: S.C. Code Section 58-3-140)~~

~~Applications that are filed with the Commission that may require a hearing shall be accompanied by an appearance bond in the amount of two hundred fifty dollars. The appearance bond is required to guarantee the applicant's appearance at the public hearing, if any, to be held in connection with its application. The appearance bond will be returned to the applicant if the applicant appears at the public hearing.~~

SUBARTICLE 2.

OPERATION AND ORGANIZATION OF THE COMMISSION

103-810. Functions of the Commission.

The Commission, as provided for by the South Carolina Constitution and as vested with power and jurisdiction by the South Carolina General Assembly, performs the following general functions:

A. Regulation and supervision of privately-owned electric utilities as to rates, charges, services, facilities, practices, accounting procedures, the purchase, sale or lease of utility property and the issuance of securities; and the administration of the Rural Electric Cooperative Act, relative to territorial boundaries. S. C. Code Ann., Section 58-27-10 et. seq. (1976), as amended; and R.103-300, et. seq.

B. Regulation and supervision of rates and charges, services, facilities, practices and accounting procedures of all intrastate privately-owned gas, water and sewerage companies; and administration of the Gas Safety Act of 1970. S. C. Code Ann., Section 58-5-10 et. seq., (1976), as amended; R.103-400 et. seq.; R.103-500 et. seq., R.103-700, et. seq.

C. Except as otherwise provided in Chapter 9 of Title 58 of the South Carolina Code of Laws, r~~R~~egulation and supervision of rates and charges, services, facilities, practices and accounting procedures for all privately and publicly-owned telephone and telegraph companies within the State. S. C. Code Ann., Section 58-9-10 et. seq., (1976), as amended; R.103-600 et. seq.

D. Regulation and supervision of rates and charges, services, facilities, practices and accounting procedures of all radio common carriers within the State. S. C. Code Ann., Section 58-11-10 et seq., (1976).

E. Regulation and supervision of for hire motor carriers of freight and passengers relative to rates, schedules, rules, charges and facilities; issuance and supervision of the administration of Certificates of Public Convenience and Necessity; administration of Registration and Safety Act of 1970. S. C. Code Ann., Section 58-23-10 et. seq., (1976), as amended; R.103-100 et. seq.

F. Regulation and supervision of express and telegraph companies. S. C. Code Ann. Section 58-9-2310 et. seq. (1976), as amended.

G. Regulation and supervision of rates, services, charges, schedules, and facilities of railroads and railways. S. C. Code Ann., Section 58-15-10 et. seq. (1976), as amended; R.103-1 et. seq.

103-811. Commissioners.

The membership of the Commission is composed of seven Commissioners. After February 2004, each member of the Commission is elected for a term of four years by the

South Carolina General Assembly upon nomination of the State Regulation of Public Utilities Review Committee ~~S.C. Public Service Commission Merit Selection Panel~~, one from each of six Commission Districts and one at-large, pursuant to S.C. Code Ann., Section 58-3-20 (Cum. Supp. ~~1976~~ **NEED TO INSERT DATE OF NEXT SUPP.**).

103-812. Chairman and Vice Chairman.

The Commission will elect one of their number chairman and another of their number vice-chairman.

103-813. The Commission Staff. **THIS MAY OR MAY NOT NEED TO BE UPDATED.**

The staff of the Commission, as authorized pursuant to S.C. Code Ann., Section 58-3-60 (1976), as amended, functions to provide the technical, administrative, and clerical assistance to the Commission to enable the Commission to perform its statutory functions. The Commission staff consists of three divisions, the Administration Division, the Transportation Division, and the Utilities Division, all under the administration of the Office of the ~~Executive Director~~Chief Clerk.

A. The Administration Division. The Administration Division, under the supervision of the ~~Executive Director~~Chief Clerk of the Commission, maintains formal control of the dockets of all proceedings before the Commission, maintains the official Hearing Calendar, notifies parties of hearing dates for formal proceedings, administers personnel programs of the Commission, supervises preparation and operation of the Commission's budget, supervises research programs, ~~receives and makes initial disposition of public inquiries,~~ and performs other duties designed to insure the administrative efficiency of the Commission. The Administration Division is composed of the Administrative Department, Office of General Counsel, Research Department and the Accounting Department.

B. The Transportation Division. The Transportation Division, under the supervision of the Director of the Transportation Division, is divided into five (5) departments, designed to assist the Commission in the regulation and supervision of the operation of motor vehicles and railroads used in the business of transporting persons and property for compensation in the State. The departments of the Transportation Division are: the Licensing Department, the Rates Department, the Law Enforcement and Safety Department, the Registration Department, and the Rails and Rail Safety Department. Each department functions under the direction of a chief.

C. The Utilities Division. The Utilities Division, under the supervision of the Director of the Utilities Division, is divided into four (4) departments, each designed to assist the Commission in performing those statutory regulatory functions described in R. 103-810, pertaining to public utilities, electric utilities, telephone and telegraph companies, express and telegraph companies, and radio common carriers. The departments of the Utilities Division are: the Gas Department, the Electric Department, the Telecommunications

Department, and the Water and Wastewater Department. Each department functions under the direction of a chief.

103-814. Office of General Counsel.

The Office of General Counsel, consisting of the Commission's legal staff, is appointed by the Commission and approved by the Attorney General of South Carolina and has the following functions:

~~A. Represent and appear for the people of the State and the Commission in all actions and proceedings involving any question of general and public interest within the jurisdiction of the Commission and, if directed to do so by the Commission, intervene, if possible, in any action or proceeding in which any such question is involved;~~

~~B. Commence, prosecute and expedite the final determination of all actions and proceedings directed or authorized by the Commission;~~

~~C~~A. Advise the Commission and each Commissioner, when so requested, in regard to all matters connected with powers and duties of the Commission and the members thereof;

~~D~~B. Generally perform all duties and service as attorney to the Commission which the Commission may require of it.

103-815. Commission Meetings.

Formal meetings of the Commission are held on a weekly basis, or at the call of the chairman or at the call of a majority of the Commission, for the purposes of formulating decisions, composing orders, planning and coordinating the work of the Commission, and conferring with the Commission staff. The ~~Executive Director~~Chief Clerk shall be responsible for the arrangement of the agenda of matters to be considered at Commission meetings. All Commission meetings and executive sessions are conducted in accordance with the terms of S.C. Code Ann., Section 30-4-10 et. seq. (Cum. Supp. **NEED TO INSERT DATE OF NEXT SUPP.**~~1986~~).

103-816. Office Hours.

The offices of the Commission will be open for business daily during the hours between 8:15 A. M. and 4:45 P. M., Monday through Friday, subject to the observance of State holidays.

103-817. Written Correspondence.

All written communications should be directed to the following address:

~~The South Carolina Public Service Commission~~
~~Post Office Drawer 11649~~

~~111 Doctor's Circle~~
~~Columbia, South Carolina 29211~~ **NEED TO USE CURRENT ADDRESS**

103-818. Telephone Communications.

The Commission subscribes to a wide area telephone service (WATS) line ~~for the receipt of complaints from users of the services of regulated entities and~~ for the transaction of Commission business. The Commission's WATS line is available for intrastate usage. The WATS line number will be prominently displayed in the published telephone directories within the State of South Carolina. **THIS MAY NO LONGER BE NEEDED, OR IT MAY NEED TO BE UPDATED.**

SUBARTICLE 3.

PROCEEDINGS

~~103-820. Informal Proceedings.~~

~~A. Nature of Informal Proceedings. When permitted by law, informal proceedings for the purposes of resolving complaints or inquiries or for the purposes of gathering information, in matters arising under the jurisdiction of this Commission, may be conducted by Commission staff members, or one or more Commissioners, without the transcription of testimony or the development of a formal record. Informal proceedings will not be utilized for any rate-making proceedings or other matters where hearings are required by law.~~

~~B. Initiation of Informal Proceedings.~~

~~(1) All informal proceedings shall be initiated by forwarding a written communication to the Executive Director at his business offices at the Commission as designated herein, which shall show the information required below; or by oral communication during normal business hours with a Commission staff employee or employees designated by the Executive Director who shall transcribe the following information on the appropriate Commission form.~~

~~(a) The name and address of the party making the complaint or request and the name and address of his attorney, if he is represented.~~

~~(b) The name and address of the party about whom the complaint or request is made.~~

~~(c) A concise, cogent statement of the factual situation surrounding the complaint or request.~~

~~(d) A concise statement of the relief sought, if any.~~

~~(2) Each such communication shall be designated by Commission staff as a "request" or "complaint".~~

~~C. Conduct of Informal Proceedings.~~

~~(1) Where permitted by statute, all complaints and requests containing the information designated in R. 103-820B will be processed pursuant to R. 103-820 unless a formal proceeding is initiated pursuant to R. 103-821B.~~

~~(2) Complaints or requests made by oral communication will be processed by the appropriate staff employee in an oral or written manner designed to reach the most expeditious resolution of the matter. The staff member shall offer the person making the complaint the option of filing a written complaint which shall be processed according to R. 103-820C(3).~~

~~(3) Each written complaint or request filed by a party, shall be dated upon receipt, and shall be assigned an appropriate file or complaint number by Commission staff, and all subsequent correspondence will refer to that file number. After filing, a copy of the complaint or request, or a concise summarization thereof, will be forwarded by Commission staff within 14 days to the party, if any, about whom the complaint or request is made. That party will respond with a brief explanation to each factual statement in the complaint or request. This response shall be mailed to the Commission within 14 days, unless otherwise specified, and a copy of such response shall be forwarded through the mail by the Commission staff to the party making the complaint or request.~~

~~(4) Unless a conference is requested by one of the parties, all informal proceedings will be conducted by the Commission staff through written correspondence, or oral communication, and all parties will be sent copies of any written correspondence and will be kept advised of any oral communication between the parties or their counsel. The object of informal proceedings shall be to obtain a fair settlement or resolution, or response, to any complaint or request through agreement or action by the parties.~~

~~(5) If any of the parties or Commission staff so requests, and it appears to the Commission staff member assigned to the informal proceeding that there is a probability of beneficial results to be derived therefrom, a conference may be directed by the Commission staff member to be held at an appropriate location, and all parties will be directed to appear. Due notice, not less than five days prior to the conference, unless otherwise agreed by all parties and Commission staff, will be given all parties of the time and place for the conference and all parties will be prepared to discuss fully the factual issues, and the possible settlement, resolution, or responses that are available to the parties. All parties shall strive to obtain a fair settlement or resolution at such conference and the parties shall reduce to writing any agreement, regarding settlement or~~

~~action to be taken, at the conclusion of the conference. The agreement, if any, shall be signed by all parties.~~

~~D. Final Disposition of Informal Proceedings. Informal proceedings will be concluded when the parties reach agreement, or resolve any complaints, questions, or problems in a reasonable fashion. Any agreements reached will be reduced to writing in every case, with copies sent to all parties, and filed in the Commission records. If no agreement is reached, or resolution of a complaint achieved, informal proceedings will be concluded by written notification from Commission staff to all parties that no agreement or resolution has been reached, and that continuation of such informal proceedings would not appear likely to achieve such agreement or resolution. This notification will advise all parties that they may initiate formal proceedings before the Commission on the complaint or request pursuant to these rules. Staff, upon request of any of the parties, may file written certification with the Executive Director, with the original complaint or request attached, stating that informal proceedings have been concluded without resolution and that the designated parties request initiation of formal proceedings as if a pleading had been filed pursuant to R. 103-821B.~~

103-821. ~~Formal~~ Proceedings.

A. Nature of ~~Formal~~ Proceedings. If required by law and upon filing of a ~~formal~~ pleading as set forth in R. 103-821B, ~~formal~~ proceedings for the purpose of rulemaking, ratemaking, licensing, determining rights, duties, or privileges of any party, and undertaking an official inquiry for the purposes of gathering information or making determinations, which fall under the jurisdiction of the Commission, shall be conducted by one or more Commissioners~~, or by a hearing examiner~~ through the development of a formal record. **THE HILIGHTED LANGUAGE MAY NOT BE RELEVANT UNDER THE NEW STATUTE.**

B. Initiation of ~~Formal~~ Proceedings.

(1) All formal proceedings shall be initiated by filing with the ~~Executive Director~~Chief Clerk at his business offices at the Commission one original and five copies of an appropriate pleading unless otherwise provided, as designated in R. 103-830, et seq. A copy of any such pleading must be served upon the Office of Regulatory Staff.

~~(2) The Executive Director may refuse to accept for filing any pleading which does not conform to the rules of the Commission, and shall mail written notice to the party or his authorized representative within ten days after receipt, stating why it has not been accepted for filing.~~

C. Conduct of ~~Formal~~ Proceedings.

(1) All pleadings initiating ~~formal~~ proceedings shall be dated upon receipt and shall be assigned a docket number after filing, and all subsequent pleadings or correspondence

shall refer to that docket number. Formal pleadings will be captioned in accordance with R. 103-830, et seq., and shall be processed pursuant to these rules.

(2) The ~~Executive Director~~Chief Clerk after filing of the pleadings shall give the Commission notice of such filing at the next regular meeting of the Commission. Where provided by law, any ~~formal~~ proceeding initiated under these rules may be dismissed without hearing by Order of the Commission within 14 days after the pleading has been accepted for filing, upon the written opinion of the Commission that the pleading on its face shows that a hearing is not necessary in the public interest or for the protection of substantial rights.

(3) After any pleading has been accepted for filing, the ~~Executive Director~~Chief Clerk may:

(a) Serve the pleadings, as required, in accordance with R.103-841, or within fourteen (14) days, provide the party filing the pleading a Notice of Filing, and, where required by law, the party at its own expense shall publish one time in newspapers having general circulation in the State, or, if applicable, in newspapers having general circulation in the party's service area. Except for good cause shown, proof of publication must be filed on or before the return date. The ~~Executive Director~~Chief Clerk, pursuant to other rules of the Commission, may require that the Notice of Filing be mailed to customers and other persons and a certificate of mailing be filed on or before the return date.

(b) Fix a date for hearing, as soon as practicable, and when a date is available on the docket calendar. If the hearing date has not been included in the Notice of Filing, the ~~Executive Director~~Chief Clerk shall prepare a Notice of Hearing, and shall forward by certified mail such Notice of Hearing to all parties. Proof of mailing must be placed in the formal record.

(c) Assign a time and place for any public hearing necessary in the conduct of any ~~formal~~ proceeding. The ~~Executive Director~~Chief Clerk shall likewise cause the pleadings to be served pursuant to these rules or issue written notice of the filing of pleadings which shall be published pursuant to law, and notice of the hearing date assigned for the conduct of any formal proceeding, as provided by law.

(d) Require from a person filing a pleading a letter incorporating a statement presenting the number of witnesses the person expects to offer in the proceeding and an estimate of the time required for the presentation of testimony and exhibits.

(4) Public hearings in the conduct of ~~formal~~ proceedings shall be held pursuant to R. 103-860, et seq.

D. Final Disposition of ~~Formal~~ Proceedings. ~~Formal p~~Proceedings shall be concluded upon the issuance of an order by the Commission or upon a settlement or agreement reached by all parties to the formal proceedings and formally acknowledged by the Commission by issuance of an order.

103-822. Rulemaking proceedings.

A. Nature of Rulemaking Proceedings. When permitted by law, and upon the filing of a pleading, pursuant to R. 103-821B, formal proceedings for the purpose of rulemaking shall be conducted by one or more Commissioners ~~or by a hearing examiner~~ through the development of a formal record.

B. Initiation of Rulemaking Proceedings. Rulemaking proceedings shall be initiated by the process identified in R. 103-821B.

C. Conduct of Rulemaking Proceedings.

(1) Pleadings filed with the Commission initiating rulemaking proceedings shall be processed ~~as in formal proceedings,~~ pursuant to R. 103-821C(1) and (2).

(2) General notice of proposed rulemaking proceedings shall be made in accordance with applicable provisions of law.

(3) The Commission shall provide an opportunity to interested parties for participation in the rulemaking proceeding through submission of written data, views or arguments with or without opportunity for oral presentation.

D. Final Disposition of Rulemaking Proceedings. Rulemaking proceedings shall be concluded upon the issuance of an order by the Commission issuing, amending, or repealing a rule or rules, and containing a concise general statement of the basis and purpose of such rule or rules. Publication of such rule or rules shall be made in accordance with applicable provisions of law.

SUBARTICLE 4.

PLEADINGS

103-830. General Contents of Pleadings.

All pleadings in ~~formal~~ proceedings before the Commission to which docket numbers have been assigned shall prominently display such docket numbers. All pleadings shall also include the following information:

A. The legal name and address of each person by whom such pleading is filed;

B. The full name and address of the authorized representative of the person filing the pleading;

C. A concise and cogent statement of the facts such person is prepared to present to the Commission;

D. A statement identifying the specific relief sought by the person filing the pleading.

103-831. General Form of Pleadings.

All pleadings filed in ~~formal~~ proceedings before the Commission should 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 a left-hand margin not less than 1 1/2 inches wide and other margins not less than 1 inch wide. The impression shall be on one side of the paper only.

103-832. Copies of Pleadings.

Pleadings shall be filed in one original and 10 copies, unless otherwise specified by the Division Director. Mimeographed or photocopied copies will be accepted as typewritten, provided all copies are clearly legible. **THE COMMISSION SHOULD CONSIDER A RULE PERMITTING ELECTRONIC FILING AND ELIMINATING OR REDUCING THE REQUIRMENT THAT PAPER COPIES BE FILED.**

103-833. Signature and Verification.

All pleadings filed with the Commission shall be signed. The signature of the person, or its authorized representative, submitting the pleading, shall constitute an admission that such person or representative has read the pleading and knows the contents thereof, and, if the signatory is acting in a representative capacity, that such signatory has the capacity and authority specified therein. A verification under oath shall be required if facts are alleged to be true within the knowledge of the person filing the pleading.

103-834. Applications.

Applications are submitted to the Commission for any authorization or permission which the Commission is empowered to grant under its statutory authority, including applications for establishment or adjustment of rates and charges.

A. Content of Applications. Applications shall state clearly and concisely the authorization or permission sought, and shall refer to the specific statutory provision or other authority under which Commission authorization or permission is sought. Applications shall further set forth the following information:

(1) The precise legal name of the applicant, which shall indicate whether the applicant is a partnership, corporation, association, establishment, governmental subdivision, or other public or private organization.

(2) The name, title, address and telephone number of the person to whom correspondence or communications relative to the application is to be addressed.

(3) The following data, in general rate establishment or adjustment applications, attached as exhibits and developed for a historic twelve-month test period unless otherwise directed:

(a) Balance sheet;

(b) Profit and loss statement;

(c) Accounting and pro forma adjustments;

(d) Computation of proposed increase or decrease;

(e) Effect of proposed increase or decrease to include copies of present and proposed tariffs;

(f) Statement of fixed assets and depreciation reserve;

(g) Rates of return on rate base and on common equity.

(4) All other information required by statute or by the Commission's Rules and Regulations under which a specific type of application is filed, or as may be required by the Commission in a particular proceeding.

B. Form of Applications. Except where otherwise prescribed by the Rules and Regulations of the Commission under which a specific type of application is filed, applications shall conform to the requirements of R. 103-830 through R. 103-833.

103-835. Complaints.

Any person complaining of anything done or omitted to be done by any person under the statutory jurisdiction of the Commission in contravention of any statute, rule, regulation or order administered or issued by the Commission, may file a written complaint with the Commission, requesting a ~~formal~~ proceeding.

A. Contents of Complaints. A written complaint filed with the Commission shall contain the following information:

(1) The name, address and telephone number of the person making the complaint and of his authorized representative, if he is represented.

(2) The name and address of the person about whom the complaint is made.

(3) A concise and cogent statement of the factual situation surrounding the complaint. If a complaint relates to an act, rule, regulation or order administered or issued by the Commission, or to a provision in a tariff or contract on file with the Commission, the act, rule, regulation, order, tariff or contract should be specifically identified in the complaint.

(4) A concise statement of the nature of the relief sought.

B. Form of Complaints. A complaint filed pursuant to this section shall conform to the requirements of R. 103-830 through R. 103-833.

C. Joinder of Complaints. Two or more grounds of complaint concerning the same subject or set of facts may be included in one complaint, but should be separately stated and numbered. Two or more complainants may join in one complaint if their respective causes of complaint are against the same defendant or defendants, and if they involve substantially the same purpose, subject or set of facts.

103-836. Petitions.

Petitions may be submitted to the Commission for any relief, other than for an adjustment of rates and charges, which the Commission is empowered to grant under its statutory authority. Petitions which may be filed include: Petition for Rulemaking, Petition for a Declaratory Order, Petition to Intervene, and Petition for Rehearing or Reconsideration. ~~, and Petition for a Rule to Show Cause.~~

A. Content of Petitions. Petitions shall state clearly and concisely the petitioner's grounds of interest in the subject matter, the facts relied upon, and the relief sought. Petitions shall cite by appropriate reference the statutory provision or other authority relied upon for relief. The following requirements are applicable to specific types of Petitions:

(1) A Petition for Rulemaking shall set forth clearly and concisely:

(a) The petitioner's interest in the subject matter;

(b) The specific rule, amendment, waiver or repeal requested;

(c) The statutory provision or other authority therefore;

(d) The purpose of, and the grounds requiring, the proposed rulemaking.

(2) A Petition for Declaratory Order to determine applicability of any statute or of any rule or order of the Commission shall state clearly and concisely:

(a) A full disclosure of the petitioner's interest;

(b) The uncertainty which is the subject of the petition;

(c) The statutory provision or other authority involved;

(d) A complete statement of the facts prompting the petition.

(3) A Petition to Intervene in a formal proceeding before the Commission shall set forth clearly and concisely:

(a) The facts from which the nature of the petitioner's alleged right or interest can be determined;

(b) The grounds of the proposed intervention;

(c) The position of the petitioner in the proceeding.

(4) A Petition for Rehearing or Reconsideration shall set forth clearly and concisely:

(a) The factual and legal issues forming the basis for the petition;

(b) The alleged error or errors in the Commission order;

(c) The statutory provision or other authority upon which the petition is based.

B. Form of Petitions. With the following exception for Petitions to Intervene, all petitions shall conform to the requirements of R. 103-830 through R. 103-833. Handwritten Petitions to Intervene may be accepted by the Commission, if legible.

103-837. Answers.

Answers are submitted to the Commission in response to complaints and petitions.~~, and to Rules to Show Cause issued by the Commission.~~ Answers are not required to Petitions for Rehearing or Reconsideration.

A. Content of Answers.

(1) Answers shall be drawn so as to advise fully and completely the Commission and any party as to the nature of the defense. Answers shall admit or deny, specifically and in detail, each material allegation of the pleading answered, and shall state clearly and concisely the facts and law relied upon.

~~(2) In an answer to a Rule to Show Cause, mere general denials of the allegations contained in the rule which are unsupported by specific facts will not be considered as complying with this section and may be deemed a basis for entry of a final order without hearing, unless otherwise required by law, on the ground that that answer has raised no issue requiring a hearing or further proceeding.~~

B. Form of Answers. Except as provided in R. 103-837A all answers shall conform to the requirements of R. 103-830 through R. 103-833.

~~103-838. Protests.~~

~~A. In General. A protest is intended to advise the Commission and all parties to a proceeding before the Commission of the fact and character of the protestant's objection to part or all of the subject matter of the proceeding. The filing of a protest does not make the protestant a party of record. The protest will be placed in a public file associated with, but not part of the formal record, and will be available for such further exploration of the substantive matters raised therein by the Commission staff and other parties as may be appropriate.~~

~~B. Form of Protests. No specific form of protest shall be required. The letter or writing should contain the name and address of the protestant, the proceeding or matter to which the protest is addressed, a concise statement of the protest, and whether the protestant wishes to make an appearance at a hearing, if scheduled.~~

103-839. Amendments.

Any modification or supplement to a pleading shall be deemed an amendment to the pleading, and shall comply with the particular requirements of content and form for the type of pleading so amended. Upon its own motion or upon motion duly filed by a party of record, the Commission may for good cause decline to permit, or may strike in whole or in part, any amendment. No amendment to a pleading may be filed within ten (10) days prior to the commencement of or during a hearing unless directed or permitted by the Commission or ~~presiding~~ hearing officer after opportunity for all parties of record to be heard thereon.

103-840. Motions.

A. Certain motions will be reduced to writing and filed with the ~~Executive Director~~Chief Clerk at least ten (10) days prior to the commencement of a hearing. Such motions shall include motions for a special appearance, motions to object to the jurisdiction of the Commission, and motions to strike a portion of a pleading filed by any party in a proceeding. Written motions to quash a subpoena will be made pursuant to R. 103-850G.

B. The Commission, in its discretion and upon due notice to all parties of record, may entertain oral argument and response on prefiled motions in advance of the scheduled hearing in the proceeding to which the motions pertain. Otherwise, such argument and response shall be made at the commencement of the hearing. The presiding officer may make a ruling upon such motion at the completion of oral argument, at the conclusion of the hearing, or in the written order making disposition of the subject matter of the proceeding.

103-841. Filing and Service of Pleadings.

All pleadings shall be filed with the ~~Executive Director~~Chief Clerk of the Commission and served on the Office of Regulatory Staff unless it has chosen not to participate in the proceeding pursuant to S.C. Code Ann. §58-4-50(A)(10).

A. Service of Applications. If a person other than the applicant is named in an application, the ~~Executive Director~~Chief Clerk will cause to be mailed to that person a copy of the notice of filing within ten days of the filing date. The person, other than the applicant, shall file its answer, if required, within twenty days of the receipt of the notice of filing.

B. Service of Complaints and Answers.

(1) A complainant requesting a hearing shall file the complaint with the ~~Executive Director~~Chief Clerk. The ~~Executive Director~~Chief Clerk shall mail a copy of the complaint to the defendant and to the Office of Regulatory Staff within 14 days of filing.

(2) The defendant shall serve its answer on the complainant and shall file its answer with certification of service with the Commission within 30 days of receipt of the complaint, unless an extension of time is granted for good cause shown. Any defendant failing to file its answer within such period, unless an extension of time is granted, shall be deemed in default and all relevant facts stated in such complaint may be deemed admitted.

C. Service of Petitions and Answers.

(1) If a person other than the petitioner is named in a petition for a declaratory order ~~or in a petition for a rule to show cause~~, the ~~Executive Director~~Chief Clerk shall cause a copy of the petition to be mailed to such named person and to the Office of Regulatory Staff within 14 days of the filing of the petition.

(2) The person named in a petition for a declaratory order ~~or in a petition for a rule to show cause~~ shall serve its answer on the petitioner and shall file its answer with certification of service with the ~~Executive Director~~Chief Clerk within 30 days of the receipt of the petition from the ~~Executive Director~~Chief Clerk unless an extension of time is granted for good cause shown.

(3) A person filing a petition to intervene or a party of record filing a petition for rehearing or reconsideration shall file the petition with certification that service of the petition has been made on all parties of record. The ~~Executive Director~~Chief Clerk shall make available to the person seeking to intervene a service list consisting of the names of all parties of record.

D. Service of Amendments. Any amendment to a pleading shall be served and answered, if applicable, according to the requirements specified herein for the type of pleading sought to be amended.

103-842. Computation of Time.

Except as otherwise provided by law, computation of the time period for mailing or serving a pleading shall not include the actual day of the filing of the pleading with the Commission, but the last day of the required time period shall be included unless that day

is a Saturday, Sunday or legal holiday. Extensions of time may be granted by the Commission for good cause shown.

SUBARTICLE 5.

SUBPOENAS; INTERROGATORIES; DEPOSITIONS; DATA REQUESTS

103-850. Subpoenas and Subpoenas Duces Tecum.

A subpoena or subpoena duces tecum may be issued under the signature of the ~~Executive Director~~Chief Clerk. Subpoenas and subpoenas duces tecum shall show at whose instance they are issued.

A. Subpoenas Duces Tecum. Unless directed by the Commission upon its own motion, a subpoena to compel a witness to produce documentary evidence will be issued only upon written request to the ~~Executive Director~~Chief Clerk showing general relevance and reasonable scope of the evidence sought, which request must also specify with particularity the books, papers, or documents desired, and the facts expected to be proved thereby. Provided, however, that for good cause shown, in lieu of written request, the request for such a subpoena may be made orally upon the record to the presiding officer at the hearing.

B. Subpoenas. A request for issuance of a subpoena, other than to compel the production of documentary evidence, may be made either by letter addressed to the ~~Executive Director~~Chief Clerk or orally upon the record to the officer presiding at the hearing.

C. Service. The original subpoena or subpoena duces tecum shall be exhibited to the individual served, and a copy thereof shall be delivered to him by the individual making service.

D. Proof of Service. The individual serving the subpoena or subpoena duces tecum shall make affidavit thereof, stating the date, time and manner of service and return to the ~~Executive Director~~Chief Clerk such affidavit on, or with, the original subpoena or subpoena duces tecum in accordance with the form thereon. In case of failure to make service, the reasons for failure shall be stated on the original subpoena or subpoena duces tecum. The written acceptance of service of a subpoena or subpoena duces tecum by the person named therein shall be sufficient without other evidence of such service. The original subpoena or subpoena duces tecum, bearing or accompanied by the required affidavit or acceptance of service, shall be returned forthwith to the ~~Executive Director~~Chief Clerk.

E. Time. No subpoena or subpoena duces tecum will be issued, without good cause shown, less than four days ~~24 hours~~ prior to the date that the individual served with the subpoena or subpoena duces tecum is required to act unless the individual being served desires to waive all or any portion of the ~~24 hours~~four days.

F. Enforcement. The Commission ~~by its counsel~~may ask the Office of Regulatory Staff to ~~may~~ seek the enforcement of a subpoena or subpoena duces tecum by requesting that the Court of Common Pleas, or a judge thereof, compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena or subpoena duces tecum issued from such court or a refusal to testify therein.

G. Motion to Quash. Any person or entity~~individual~~ who is compelled to act by force of subpoena or subpoena duces tecum and who objects thereto shall file written motion to quash, setting forth the reasons the subpoena or subpoena duces tecum should not be obeyed, or make an oral motion at the hearing, stating the reasons the subpoena or subpoena duces tecum should not be obeyed. Time permitting, the Commission will, by order or otherwise, rule on the motion to quash a subpoena or subpoena duces tecum prior to the hearing. If time prevents such ruling, the presiding officer may rule on such motion at the commencement of the hearing provided such motion is renewed at that time. The person or entity filing a motion to quash a subpoena duces tecum is not required to produce any documents pursuant to the subpoena before the Commission has ruled on the motion to quash.

103-851. Written Interrogatories.

~~A. Any material relevant to the subject matter involved in the pending proceeding may be discovered unless the material is privileged or is hearing preparation working papers prepared for the pending proceeding.~~ **BY DELETING THIS SECTION, THE RULES OF CIVIL PROCEDURE WILL GOVERN THE SCOPE OF DISCOVERY.**

~~B~~A. Unless under special circumstances and for good cause shown, written interrogatories shall not be served less than 10 days prior to the date assigned for commencement of hearing. Any party of record may serve upon other parties ~~or parties of record~~ written interrogatories to be answered by the party served. If the party served is a public or private corporation, partnership, association, or governmental agency, any officer or agent who possesses the desired information may respond to the interrogatories. Copies of interrogatories served shall also be filed with the ~~Executive Director~~Chief Clerk and provided to the Office of Regulatory Staff. Each interrogatory shall be answered separately and fully in writing, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the individual making them and subscribed by an appropriate verification. Objections are to be signed by the authorized representative or individual making them. The person upon whom the interrogatories have been served shall serve a copy of the answers and objections within the time period designated by the party of record submitting the interrogatories, but not less than 10 days after the service thereof, unless the time is extended by the Commission for good cause shown or by agreement of the party responding to the interrogatory and the party serving the interrogatory. Copies of answers and objections, if any, shall be ~~filed with the Executive Director of the Commission~~provided to the Office of Regulatory Staff.

103-852. Depositions.

Any party of record to a proceeding may, by written request, ask the Commission for leave to take the testimony of any witness by deposition. The request shall set forth the facts the requesting party seeks to establish by the deposition. Such written request shall be filed with the Commission at least 10 days prior to the commencement of the scheduled hearing. The requesting party shall give notice by providing a copy of the written request to each party of record to the proceeding. If the Commission deems the request meritorious, it may issue an Order designating the individual whose deposition may be taken, specifying the subject matter of the examination, and setting forth the time and place of such deposition, and whether it shall be written or oral examination. All costs incidental thereto shall be paid by the party desiring such deposition. If the request is not deemed meritorious, the written request shall be denied by Order or otherwise.

~~103-853. Data Request.~~

~~The Commission staff, in order to perform statutory duties assigned to the Commission, may request that a party provide certain data and information on various matters at issue in a formal proceeding. This data request, when filed, becomes available for public inspection and copying as provided for in R. 103-804Y(3). In submitting data request staff shall follow the procedure established in R. 103-804X.~~

103-854. Other Discovery Procedures

The S. C. Rules of Civil Procedure govern all discovery matters not covered in Commission Regulations 103-850 through 103-852.

SUBARTICLE 6.

HEARINGS

103-860. How Hearings are Set.

~~In formal proceedings, t~~The Commission will assign a time and place for hearing and shall give notice thereof as required by law.

103-861. Hearing Calendar.

The hearing calendar will be posted in the office of the ~~Executive Director~~Chief Clerk of the Commission and shall be available for inspection by the public during the office hours of the Commission. ~~Formal p~~Proceedings pending upon this calendar will be heard in their order of assignment, so far as practicable, at the times and places fixed, provided, however, in its discretion, with or without motion, the Commission may, at any time with reasonable notice to the parties, advance or postpone any ~~formal~~ proceeding on the hearing calendar.

103-862. Continuance.

Any party of record desiring a continuance shall, immediately upon receipt of notice of the hearing or as soon thereafter as facts requiring such continuance come to its knowledge, notify the ~~Executive Director~~Chief Clerk, stating in detail the reasons why such continuance is necessary. Unless good cause is shown, no such continuance shall be granted.

103-863. Prehearing Conferences.

A. Purposes. Upon written notice by the Commission in any formal proceeding, parties of record or their authorized representative may be directed to meet before a designated Commissioner or Hearing Officer ~~staff member~~ at a specified time and place for a conference, prior to a hearing, for the purpose of formulating issues, and considering:

(1) The simplification of issues;

(2) The necessity or desirability of amending the pleadings for the purposes of clarification, amplification or limitation;

(3) The possibility of obtaining admissions of fact and documents which will avoid unnecessary proof;

(4) Limitations on the number and consolidation of the examination of witnesses;

(5) The procedure at the hearing;

(6) The distribution of written testimony and exhibits to the parties prior to the hearing;

(7) Any other matters as may aid in the disposition of the proceeding, or settlement thereof.

B. Report of Stipulations. Following the prehearing conference, a proposed Report of Stipulations, reciting the action taken at the conference, amendments allowed to the pleadings, if any, and agreements, if any, made by the parties of record concerning all of the matters considered, shall be provided to the parties of record or their authorized representatives for approval. If no objection to the Report of Stipulations is filed within ten days after the date such Report is mailed, it shall be deemed to be approved. This Report, when approved, shall limit the issues to be heard at the hearing to those not disposed of by admissions or agreements of the parties or their authorized representative and will control the subsequent course of the formal proceeding unless modified at the hearing to prevent manifest injustice.

103-864. Consolidated Hearings.

The Commission, upon its own motion or upon motion by any party, may order two or more formal proceedings involving a similar question of law or fact to be consolidated for hearing where rights of the parties or the public interest will not be prejudiced by such procedure.

103-865. Presiding Officer.

A. In General. When evidence is to be taken in a formal proceeding before the Commission, any Commissioner ~~or any hearing examiner~~ designated by the Commission may preside at the hearing.

B. Powers and Duties of Presiding Officer. A presiding officer shall have the duty to conduct full, fair, and impartial hearings, to take appropriate action to avoid unnecessary delay in the disposition of proceedings, and to maintain order; and shall possess all powers necessary to that end, including the following:

(1) To administer oath and affirmations;

(2) To order subpoenas issued and to provide for other methods of discovery;

(3) To receive evidence and rule upon all objections and motions which do not involve final determination of proceedings;

(4) To take such other action as may be necessary and appropriate to the discharge of duties consistent with the statutory authority or other authorities under which the Commission functions.

C. Report of Presiding Officer. When a majority of the Commissioners do not hear a ~~formal~~ proceeding or read the record thereof, the presiding officer shall mail to the parties of record a proposed Order. The proposed Order shall contain a statement of facts relied upon in formulating such Order and each issue of fact or law necessary to it. Any party of record will then have ten days in which to file exceptions, present briefs, and file written requests for oral argument to the Commission, if it is desired to do so. If exceptions and briefs are filed within the prescribed time period, the Commission will consider the points raised therein and will issue its Order based upon the record of the formal proceeding, the proposed Order, and the exceptions and briefs filed. If a written request for oral argument is filed, the Commission will establish a date for such oral argument to be heard and will notify all parties of record as to date, time and place for such argument. Thereafter, the Commission will issue its Order based upon the record of the formal proceeding, the proposed Order, any exceptions and briefs filed, and the oral argument presented. If no exceptions, briefs, or written requests for oral argument are received within the prescribed ten days, the Commission will issue its Order based upon the record of the formal proceeding and the proposed Order.

103-866. Order of Procedure.

A. ~~Commission Investigations~~Proceedings Initiated by the Office of Regulatory Staff. In proceedings ~~Upon an investigation~~ initiated by the ~~Commission or by staff on motion of the Commission~~Office of Regulatory Staff, evidence in a formal proceeding will ordinarily be received in the following order:

(1) Office of Regulatory Staff~~Commission staff~~;

(2) Respondent;

(3) Other parties.

B. Applications and Petitions. Evidence will ordinarily be received upon applications and petitions in the following order:

(1) Applicant or Petitioner;

(2) Other parties;

(3) Office of Regulatory Staff~~Commission staff~~.

C. Formal Complaint. Evidence will ordinarily be received upon complaints in the following order:

(1) Complainants;

(2) Respondents;

(3) Other parties;

(4) Office of Regulatory Staff~~Commission staff~~.

103-867. Standard of Conduct.

All individuals acting in a representative capacity in formal proceedings before the Commission shall conform to the standards of ethical conduct required of attorneys before the courts of this State. If any such individual does not conform to such standards, the Commission may decline to permit such individual to act in a representative capacity in any proceeding before the Commission.

103-868. Failure to Attend Designated Hearing.

A. At the time and place set for hearing, if an applicant, petitioner, or complainant fails to attend personally or through an authorized representative without having obtained a continuance in the manner specified in R. 103-862, the Commission may dismiss the petition, application, or complaint with or without prejudice or may, upon good cause

shown, recess such hearing for a further period to be set by the Commission to enable such applicant, petitioner, or complainant to attend.

B. Parties of record or their authorized representative shall be present during all proceedings of any scheduled matter pending before the Commission except upon leave of the presiding officer.

103-869. Witnesses.

A. In General. Witnesses shall be examined orally. Witnesses presenting testimony shall be sworn, or shall affirm, before their testimony shall be deemed evidence in the proceeding or any questions are put to them.

B. Cumulative Testimony Restricted. The presiding officer may limit the number of witnesses whose testimony may be merely cumulative. In order to enforce this section, the presiding officer may require a clear statement on the record of the nature of the testimony to be given by any witness proffered.

C. Prepared Statements and Exhibits. A witness may read into the record, as his direct testimony, statements of fact or expressions of his opinion prepared by him, or written answers to interrogatories of counsel. A prepared statement of a witness may also be received as an exhibit. All parties of record, insofar as it is practicable, should prefile with all other parties of record copies of prepared testimony and exhibits which the party of record proposes to use during a hearing. In ~~formal~~ proceedings involving utilities, the Commission shall require any party and the Office of Regulatory Staff~~staff~~ to file copies of testimony and exhibits and serve them on all other parties of record within a specified time in advance of the hearing. In ~~formal~~ proceedings involving companies other than utilities, the Commission may require any party and staff to file copies of testimony and exhibits and serve them on all other parties of record within a specified time in advance of the hearing. When prepared testimony and exhibits are prefiled with the Commission, twenty-five copies, unless otherwise specified, of such testimony and exhibits must be furnished to the Commission for the use of the Commission and Staff. **THE COMMISSION SHOULD CONSIDER A RULE PERMITTING ELECTRONIC FILING AND ELIMINATING OR REDUCING THE REQUIRMENT THAT PAPER COPIES BE FILED.**

103-870. Evidence.

A. In General. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in the Court of Common Pleas shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to

these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

B. Reception and Ruling on Proffered Evidence. The presiding officer shall rule on the admissibility of all evidence and shall otherwise control the reception of evidence so as to confine it to the issues in the hearing.

C. Notice of Cognizable Facts. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties of record shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed. Parties shall be afforded an opportunity to contest the material proposed to be noticed.

103-871. Documentary Evidence.

A. Commission Files. In case any matter contained in a report or other document on file with the Commission is offered in evidence, such report or other document need not be produced or marked for identification, but may be offered in evidence by specifying the report, document, or file containing the matter so offered.

B. Records in Other Proceedings. If the transcript, or any portion thereof, of another ~~formal~~ proceeding before the Commission is desired to be introduced into the formal record at a subsequent hearing, a true copy of the portion desired must be presented.

C. Abstracts of Documents. When documents are numerous, such as freight bills or bills of lading, and it is desired to offer in evidence more than a limited number of such documents as typical of the others, an abstract of relevant data of such documents shall be prepared in an orderly manner and offered as an exhibit, giving other parties to the proceeding reasonable opportunity to examine both the abstract and the documents.

103-872. Exhibits.

A. SIZE OF EXHIBITS. Except by special permission of the presiding officer, no prepared exhibits offered as evidence shall be of greater size, when folded, than 8 1/2 inches by 11 inches.

B. Copies of Exhibits. When exhibits are offered in evidence, the original shall be furnished to the reporter, and the party offering exhibits should also be prepared to furnish a copy to each Commissioner sitting and the presiding officer, each party of record, and the staff, unless such copies have been previously furnished or the presiding officer directs otherwise. Whenever practicable, the parties should exchange copies of exhibits which they propose to use prior to the hearing.

C. Marking of Exhibits. All exhibits shall be marked numerically in the order of identification.

103-873. Objections to the Introduction of Evidence.

A. In General. Any evidence offered in whatever form shall be subject to appropriate and timely objection. When objection is made to the admissibility of evidence, such evidence may be received subject to later rulings by the presiding officer. The presiding officer, in his discretion, either with or without objection, may exclude inadmissible, incompetent, cumulative, or irrelevant evidence, or order the presentation of such evidence discontinued. Parties objecting to the introduction of evidence shall briefly state the grounds of objection at the time such evidence is offered.

B. Offers of Proof. When the presentation of any evidence is objected to and such objection is sustained by the presiding officer, the proponent of the evidence may request that she or he be allowed to present an offer of proof for the formal record. Such offer of proof shall consist of a statement of the substance of the evidence to which objection has been sustained, or if the excluded evidence consists of evidence in documentary or written form, a copy of such evidence shall constitute the offer of proof.

103-874. Transcripts.

A. In General. The Commission will cause to be made a record of all ~~formal~~ proceedings.

B. Copies of Transcript. Copies of the typewritten transcript of any ~~formal~~ proceeding may be obtained from the hearing reporters upon request and after payment of the applicable fee.

103-875. Briefs.

A. Due Date. The presiding officer shall fix the time for filing and service of briefs. Without special permission, however, the time in which to file briefs shall not exceed 30 days from the close of the hearing.

B. Table of Contents and Citations. A brief of more than 20 pages shall contain a table of contents showing arguments presented with page references and a list of citations, alphabetically arranged with references to the pages where they appear.

C. Scope of Briefs. Briefs should contain:

(1) A concise statement of the case;

(2) An abstract of the evidence relied upon, preferably assembled by subjects;

(3) Factual and legal arguments, or, if desired, a proposed Order together with reasons and authorities therefor.

D. Exhibit Reproduction. Exhibits may be reproduced in an appendix to the brief. Analysis of such exhibits should be included in the abstract of evidence under the subjects to which they pertain.

E. Filing and Service. Briefs must be filed with the ~~Executive Director~~Chief Clerk and served on parties of record on or before the date fixed. If not filed on or before the date fixed, the brief will not be received without permission from the Commission or the presiding officer. All briefs shall be accompanied by a certificate showing service upon all parties of record or their authorized representatives who appeared at the hearing. Ten copies of each brief shall be furnished for the use of the Commission and staff.

103-876. Service of Orders.

All Orders representing final disposition of a formal proceeding shall be filed with the ~~Executive Director~~Chief Clerk who shall serve copies thereof upon all parties of record or their authorized representative in the manner provided by S.C. Code Ann. §58-3-150(B). ~~Such service shall be by certified mail or by delivery to theparties or their attorneys, as may be appropriate.~~

SUBARTICLE 7.

COMMISSION ORDERS

103-880. Finality of Decision.

All formal proceedings before the Commission shall be disposed of by issuance of an Order as defined in R. 103-804T served upon all parties of record.

A. Effective Date of Orders. Commission Orders shall take effect and become operative as set forth in S.C. Code Ann. §58-3-250(B). ~~take effect and become operative upon the date of issuance, unless otherwise provided, and shall continue in force and effect either for a period which may be designated therein or until rescinded, modified or amended by the Commission. If an Order cannot be complied with within prescribed time limit, the Commission may, upon application, grant such additional time as in its judgment is reasonably necessary to comply with the Order.~~

B. Rescinding, Modifying, Amending Order or Decision. The Commission may rescind, modify, or amend any Order after notice and after opportunity to be heard in the case of compliance. ~~If the rescission, modification or amendment pertains to other than clerical errors or omissions, parties of record shall be provided notice and opportunity to be heard.~~ Any Order rescinding, modifying or amending a prior Order, after notice to the parties, shall have the same effect as is provided for in original Orders, but no such Order shall affect the legality or validity of any acts done pursuant to the original Order before notice of such rescission, modification, or amendment.

103-881. Petition for Rehearing or Reconsideration.

Unless otherwise provided by law, no cause of action shall accrue in any court of competent jurisdiction to vacate or set aside any Order of the Commission, either in whole or in part, unless a petition for rehearing or reconsideration and proof of service are filed with the Commission, and an Order has been issued disposing of the matter.

A. Form, Contents of Petition for Rehearing or Reconsideration. All petitions for rehearing or reconsideration shall conform to R. 103-836.

B. Time limit for filing a petition for rehearing or reconsideration. Except as otherwise provided by law, including without limitation S. C. Code Ann., Section 58-5-330, 58-9-1200, 58-11-550, 58-27-2150 (1976), any party of record may, within 20 days after the date of receipt of Order, petition the Commission for rehearing or reconsideration. A Petition for Reconsideration shall be subject to the same statutory parameters as a Petition for Rehearing.

C. Action by the Commission. The Commission must act upon the petition for rehearing or reconsideration within thirty (30) days after such petition is filed except as otherwise provided by law, including without limitation, S. C. Code Ann., Section 58-5-330, 58-9-1200, 58-11-550, 58-27-2150 (1976). Failure to act within this time period shall be deemed a denial of the relief sought in the petition.

D. Effect of Filing a Petition. Filing a petition shall not excuse or delay compliance with an Order issued by the Commission, unless specifically provided by the Commission.

103-882. Presiding Officer's Proposed Report.

In the event a presiding officer hears a matter before the Commission, the parties of record may, by stipulation, waive the preparation of a proposed report. Parties of record may file exceptions to the proposed report pursuant to R. 103-865C.

103-883. Appellate Review.

A. In General. After a request for rehearing is denied or is deemed denied, ~~denial of rehearing,~~ a party of record may appeal a Commission Order to the appropriate judicial forum pursuant to applicable provisions of law.

B. Stay of Commission Order Pending Review. Except as otherwise provided by law, an appeal from an Order of the Commission shall not of itself stay or suspend operation of the Order of the Commission.

C. Transcript of Testimony. A transcript of the proceeding will be furnished upon request to the Commission's hearing reporters, stating the number of copies desired, the person to be billed and the person to whom the transcript is to be sent.

D. Record on Appeal. Unless otherwise required by law, ~~I~~in any action to review a final decision of the Commission, the record shall consist of all items set forth in R. 103-804G.

E. Stipulations. The Commission, and any party of record appealing a Commission Order, may stipulate that a certain question or questions and a specified portion of the evidence shall be certified to the Court for its judgment, whereupon such stipulation and the question or questions and the evidence therein specified shall constitute the record on view.

F. Priority. Cases appealed from the Commission shall have priority where such is given by statute.

103-884. Penalty Provisions.

A. In General. Any fine or penalty assessed against any person as allowed by statute, may be imposed in accordance with applicable provisions of law and these rules as established by the Commission.

B. Calculation of Fine or Penalty. The fine or penalty will be incurred and will accrue each day with each day considered a separate breach or violation.

C. Payment of Fine or Penalty. A fine or penalty assessed pursuant to the provisions of these rules shall be paid immediately upon demand by certified check made payable to the State of South Carolina. Failure to honor this demand within ten days shall result in a filing in the appropriate county office or offices, for collection of such fine or penalty as provided by law.

D. Disbursement of Fine or Penalty. All fines or penalties assessed by the Commission shall go into the general funds of the State unless otherwise provided by law.

103-885. General Provisions.

A. Additional Hearings. The Commission may, in addition to other hearings as provided for by rule or statute, conduct such other hearings as may be required in the administration of the Commission's power and duties.

B. Construction. If any provision of these rules or the application thereof is held invalid, the remainder of the rules or other application of such rules shall not be affected.

103-886. Emergency Procedures.

A. When it appears to the Commission Staff that a utility is planning to disconnect its service to a customer(s) in violation of the Commission's Rules and Regulations and under circumstances which prevent the full Commission from meeting to address the issue, upon the request of the ~~Commission~~ Office of Regulatory Staff, any one Commissioner may issue an Order on behalf of the Commission restraining and/or

enjoining a utility from disconnecting service or requiring the utility to maintain the status quo with its customer(s) until further Order of the Commission. Thereafter, at the next scheduled Commission meeting with proper legal notice, the full Commission shall consider the Order of the single Commissioner and take such action on the single Commissioner's Order as it deems appropriate.

B. When it appears to the ~~Commission~~ Office of Regulatory Staff that a utility has disconnected a customer's (s') service in violation of the Commission's Rules and Regulations and under circumstances which prevent the full Commission from meeting to address the issue, upon the request of the Office of Regulatory~~Commission~~ Staff, any one Commissioner may issue an Order on behalf of the Commission requiring the utility to reconnect the service and maintain that status quo until further Order of the Commission. Thereafter, at the next scheduled Commission meeting with proper legal notice, the full Commission shall consider the Order of the single Commissioner and take such action on the single Commissioner's Order as it deems appropriate.

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PRACTICE AND PROCEDURE REGULATIONS OF THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

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ARTICLE 8.

PRACTICE AND PROCEDURE

SUBARTICLE 1.

GENERAL

103-800. Authorization.

A. In accordance with provisions of law, the Public Service Commission has adopted the following rules and regulations and fixed the following standards to govern the practice and procedures of parties before it, effective **INSERT NEW DATE**. All previous rules or standards of practice and procedure are hereby revoked, annulled and superseded.

B. The adoption of these rules shall in no way preclude the Public Service Commission from altering, amending or revoking them in whole or in part, or from making additions thereto, pursuant to provisions of law, upon petition of a proper party or upon its own motion.

C. The adoption of these rules of practice and procedure shall not relieve either the Commission or any party participating in proceedings before it of any duties prescribed under the laws of this State.

103-801. Jurisdiction.

To the extent allowed by law, these rules shall apply to any individual, firm, partnership, cooperative, corporation, association, establishment, corporation, or governmental subdivision which participates in proceedings before the Public Service Commission.

103-802. Purpose of Rules.

These rules are intended to define standards of proper practice before the Public Service Commission. They are intended to insure that all parties participating in proceedings before the Commission will be accorded the procedural fairness to which they are entitled by law. These rules are further intended to promote efficiency in, and certainty of, the procedures and practices herein adopted. All parties participating in proceedings before

the Commission shall assist the Commission in the implementation of these rules and regulations.

103-803. Waiver of Rules.

In any case where compliance with any of these rules and regulations produces unusual hardship or difficulty, or where circumstances indicate that a waiver of one or more rules or regulations is otherwise appropriate, the application of such rule or regulation may be waived by the Commission upon a finding by the Commission that such waiver is not contrary to the public interest.

103-804. Definitions.

The following words and terms, when used in the context of these rules and regulations, shall have the meanings indicated.

A. Commission and Commissioner. The South Carolina Public Service Commission and a Commissioner thereof, respectively.

B. Presiding Officer. A Commissioner duly designated by the Commission, who presides at proceedings before the Commission.

C. Hearing Officer. An attorney employed by the Commission who may, pursuant to provision of law: hear and determine procedural motions or other matters not determinative of the merits of the proceedings and made prior to hearing; at the hearing, make all rulings on nondispositive motions and objections; and, subject to being overruled by the Commission, rule on questions concerning the conduct of the case and the admission of evidence.

D. Staff Counsel. Legal Counsel of the Commission and Commission Staff.

E. Proceeding. The general process of the Commission's determination of the relevant facts and the applicable law, the consideration thereof and the action thereupon in regard to a particular subject matter within the Commission's jurisdiction, initiated by the filing of an appropriate pleading or issuance of a Commission order. .

F. Pleading. Any document filed in a proceeding before the Commission, including complaint, answer, application, protest, motion (other than an oral motion made during a proceeding) or petition. **BELLSOUTH RECOMMENDS MODIFYING THIS DEFINITION CONSISTENT WITH THE SC RULES OF CIVIL PROCEDURE.**

G. Formal Record. The documentation pertaining to a proceeding before the Commission, including the following: the designation of the presiding officer; designation of the hearing officer, if any; proofs of publication and notification; all

pleadings and intermediate rulings; the transcript or official recording of hearing which shall include all evidence received or considered; a statement of matters officially noticed; all questions and offers of proof, objections and rulings thereof; proposed findings and exceptions, if any; any decision, opinion or report by the presiding officer; all staff memoranda or data submitted to the hearing officer or members of the Commission in consideration of a proceeding; and the order(s) making final disposition of the matter.

H. Person. Any individual, partnership, corporation, association, establishment, governmental subdivision, or public or private organization of any character.

I. Party. Any person named or admitted by the Commission as a party to a proceeding before the Commission, or properly seeking and entitled as of right to be admitted as a party to a proceeding before the Commission. A party in a proceeding before the Commission is entitled to receive all documentary materials, pleadings, orders or other dispositions of matters relevant to the proceeding. Parties will include applicants, complainants, defendants, respondents, and intervenors. Parties may file a petition for rehearing of Commission orders, pursuant to R. 103-880 et seq.

K. Applicant. A party on whose behalf an application is made to the Commission for any permission or authorization which the Commission may grant pursuant to statutory or other proper authority.

L. Complainant. A party who complains to the Commission of anything done, or omitted to be done, in contravention or violation of the provisions of any statute or other delegated authority administered by the Commission, or of any order, rule or regulation issued or promulgated thereunder, or any other alleged wrong within the jurisdiction of the Commission.

M. Intervenor. A party who files a petition to intervene in a proceeding before the Commission, as provided by R. 103-836, and after such petition is approved by the Commission or presiding officer. Admission as an intervenor shall not be construed as recognition by the Commission that such intervenor might be aggrieved by any order of the Commission in such proceeding.

N. Respondent. A party subject to any statute or other delegated authority administered by the Commission to whom an order or notice is issued by the Commission instituting an investigation or a proceeding.

O. Defendant. A party subject to statute or other delegated authority administered by the Commission, or any order, rule or regulation issued or promulgated thereunder, against whom any complaint is filed.

P. Petitioner. A party seeking relief from the Commission, and not otherwise designated herein.

Q. Representation.

(1) The act of serving as counsel for a party, or of serving as the authorized representative of a party, in a proceeding before the Commission. Representation of a party of record in a proceeding shall include the right to offer evidence on behalf of the party represented and to cross-examine witnesses offered by other parties. Those persons who may act in a representative capacity are the
following:

(a) An individual may represent himself or herself in any proceeding before the Commission.

(b) An attorney authorized to practice law in the State of South Carolina may represent a party in any proceeding before the Commission. An attorney not authorized to practice before the courts of the State of South Carolina but authorized to practice before the courts of any other State may represent a party in any formal proceeding before the Commission upon association with an attorney admitted to practice before the courts of South Carolina.

(2) All persons acting in a representative capacity before the Commission shall be subject to any limitation imposed by statute or other proper authority.

R. Order. A written decision or opinion issued by the Commission representing the whole or any part of the disposition (whether affirmative, negative, injunctive or declaratory in form) of a proceeding before the Commission.

S. Rule. The whole or any part of a Commission statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure or practice requirements of the Commission.

T. Rulemaking. The Commission process for the formulation, amendment or repeal of a rule.

U. Public Records.

(1) Those official items of information within the files of the Commission which are available for inspection by the public. Public records include:

(a) Applications, complaints, petitions and other papers seeking Commission action;

(b) Financial, statistical and other reports to the Commission; rates and rate schedules; any other filings and submittals to the Commission in compliance with the requirement of any statute, Commission order, rule or regulation;

(c) All pleadings, notices, depositions and formal records in proceedings before the Commission;

(d) Any proposed testimony or exhibit filed with the Commission but not yet offered or received in evidence;

(e) All Commission orders, notices, findings, opinions, determinations, and other actions in proceedings and all Commission minutes which have been approved and filed with the Chief Clerk;

(f) All Commission correspondence relating to any furnishing of data or information;

(g) Commission correspondence relating to the interpretation or applicability of any statute, rule, regulation or order issued or administered by the Commission and letters of opinion on those subjects signed by Staff Counsel and sent to others than the Commission, a Commissioner, or any of the Commission's staff;

(h) Copies of all filings, certifications, pleadings, records, briefs, orders, judgments, decrees and mandates in court proceedings in which the Commission is a party and all correspondence with the Courts or clerks of court.

(2) The term Public Records does not include any information specifically exempted by statute or Commission order.

(3) Public Records are available for public inspection at the offices of the Commission, during the Commission's business hours. Copies of public records may be made available by the Chief Clerk for a reasonable charge.

V. Notice of Filing.

(1) A statement prepared by the Chief Clerk upon the filing of a pleading which initiates a proceeding, and which is provided to the party submitting the pleading. The Notice of Filing shall be published pursuant to R. 103-821C and shall otherwise be processed according to the Commission's Rules and Regulations concerning specific persons within the Commission's jurisdiction.

(2) The Notice of Filing shall contain a brief description of the pleading, reference to the statutory or other legal authority under which the pleading was filed, and the manner in which interested persons may file petitions to intervene or protests, and the return date.

W. Notice of Hearing.

(1) A statement prepared by the Chief Clerk which provides certain information relative to the public hearing scheduled in a proceeding before the Commission, and submitted to all parties in that proceeding. The Notice of Hearing shall be published, pursuant to applicable provisions of law.

(2) A Notice of Hearing shall include the following items of information:

(a) A statement of the date, time, and place of the public hearing;

(b) A reference to the legal authority under which the proceeding was instituted;

(c) A description of the subject and issues involved, and, in a rulemaking proceeding, the terms or substance of the proposed rule.

(3) At its discretion, the Commission may consolidate a Notice of Hearing with a Notice of Filing, and issue a Notice of Filing and Hearing, if the public interest so requires.

X. Executive Assistant to Commissioners. The responsibilities of the Executive Assistant to Commissioners are to advise the Commissioners and to serve as a liaison among the Commission, the Commission Staff, the Press, members of the public and the regulated companies. **THIS MAY OR MAY NOT NEED TO BE UPDATED.**

SUBARTICLE 2.

OPERATION AND ORGANIZATION OF THE COMMISSION

103-810. Functions of the Commission.

The Commission, as provided for by the South Carolina Constitution and as vested with power and jurisdiction by the South Carolina General Assembly, performs the following general functions:

A. Regulation and supervision of privately-owned electric utilities as to rates, charges, services, facilities, practices, accounting procedures, the purchase, sale or lease of utility property and the issuance of securities; and the administration of the Rural Electric Cooperative Act, relative to territorial boundaries. S. C. Code Ann., Section 58-27-10 et. seq. (1976), as amended; and R.103-300, et. seq.

B. Regulation and supervision of rates and charges, services, facilities, practices and accounting procedures of all intrastate privately-owned gas, water and sewerage companies; and administration of the Gas Safety Act of 1970. S. C. Code Ann., Section 58-5-10 et. seq., (1976), as amended; R.103-400 et. seq.; R.103-500 et. seq., R.103-700, et. seq.

C. Except as otherwise provided in Chapter 9 of Title 58 of the South Carolina Code of Laws, regulation and supervision of rates and charges, services, facilities, practices and accounting procedures for all privately and publicly-owned telephone and telegraph

companies within the State. S. C. Code Ann., Section 58-9-10 et. seq., (1976), as amended; R.103-600 et. seq.

D. Regulation and supervision of rates and charges, services, facilities, practices and accounting procedures of all radio common carriers within the State. S. C. Code Ann., Section 58-11-10 et seq., (1976).

E. Regulation and supervision of for hire motor carriers of freight and passengers relative to rates, schedules, rules, charges and facilities; issuance and supervision of the administration of Certificates of Public Convenience and Necessity; administration of Registration and Safety Act of 1970. S. C. Code Ann., Section 58-23-10 et. seq., (1976), as amended; R.103-100 et. seq.

F. Regulation and supervision of express and telegraph companies. S. C. Code Ann. Section 58-9-2310 et. seq. (1976), as amended.

G. Regulation and supervision of rates, services, charges, schedules, and facilities of railroads and railways. S. C. Code Ann., Section 58-15-10 et. seq. (1976), as amended; R.103-1 et. seq.

103-811. Commissioners.

The membership of the Commission is composed of seven Commissioners. After February 2004, each member of the Commission is elected for a term of four years by the South Carolina General Assembly upon nomination of the State Regulation of Public Utilities Review Committee , one from each of six Commission Districts and one at-large, pursuant to S.C. Code Ann., Section 58-3-20 (Cum. Supp. **NEED TO INSERT DATE OF NEXT SUPP.**).

103-812. Chairman and Vice Chairman.

The Commission will elect one of their number chairman and another of their number vice-chairman.

103-813. The Commission Staff. **THIS MAY OR MAY NOT NEED TO BE UPDATED.**

The staff of the Commission, as authorized pursuant to S.C. Code Ann., Section 58-3-60 (1976), as amended, functions to provide the technical, administrative, and clerical assistance to the Commission to enable the Commission to perform its statutory functions. The Commission staff consists of three divisions, the Administration Division, the Transportation Division, and the Utilities Division, all under the administration of the Office of the Chief Clerk.

A. The Administration Division. The Administration Division, under the supervision of the Chief Clerk of the Commission, maintains formal control of the dockets of all

proceedings before the Commission, maintains the official Hearing Calendar, notifies parties of hearing dates for formal proceedings, administers personnel programs of the Commission, supervises preparation and operation of the Commission's budget, supervises research programs, and performs other duties designed to insure the administrative efficiency of the Commission. The Administration Division is composed of the Administrative Department, Office of General Counsel, Research Department and the Accounting Department.

B. The Transportation Division. The Transportation Division, under the supervision of the Director of the Transportation Division, is divided into five (5) departments, designed to assist the Commission in the regulation and supervision of the operation of motor vehicles and railroads used in the business of transporting persons and property for compensation in the State. The departments of the Transportation Division are: the Licensing Department, the Rates Department, the Law Enforcement and Safety Department, the Registration Department, and the Rails and Rail Safety Department. Each department functions under the direction of a chief.

C. The Utilities Division. The Utilities Division, under the supervision of the Director of the Utilities Division, is divided into four (4) departments, each designed to assist the Commission in performing those statutory regulatory functions described in R. 103-810, pertaining to public utilities, electric utilities, telephone and telegraph companies, express and telegraph companies, and radio common carriers. The departments of the Utilities Division are: the Gas Department, the Electric Department, the Telecommunications Department, and the Water and Wastewater Department. Each department functions under the direction of a chief.

103-814. Office of General Counsel.

The Office of General Counsel, consisting of the Commission's legal staff, is appointed by the Commission and approved by the Attorney General of South Carolina and has the following functions:

A. Advise the Commission and each Commissioner, when so requested, in regard to all matters connected with powers and duties of the Commission and the members thereof;

B. Generally perform all duties and service as attorney to the Commission which the Commission may require of it.

103-815. Commission Meetings.

Formal meetings of the Commission are held on a weekly basis, or at the call of the chairman or at the call of a majority of the Commission, for the purposes of formulating decisions, composing orders, planning and coordinating the work of the Commission, and conferring with the Commission staff. The Chief Clerk shall be responsible for the arrangement of the agenda of matters to be considered at Commission meetings. All Commission meetings and executive sessions are conducted in accordance with the terms

of S.C. Code Ann., Section 30-4-10 et. seq. (Cum. Supp. **NEED TO INSERT DATE OF NEXT SUPP.**).

103-816. Office Hours.

The offices of the Commission will be open for business daily during the hours between 8:15 A. M. and 4:45 P. M., Monday through Friday, subject to the observance of State holidays.

103-817. Written Correspondence.

All written communications should be directed to the following address:

NEED TO USE CURRENT ADDRESS

103-818. Telephone Communications.

The Commission subscribes to a wide area telephone service (WATS) line for the transaction of Commission business. The Commission's WATS line is available for intrastate usage. The WATS line number will be prominently displayed in the published telephone directories within the State of South Carolina. **THIS MAY NO LONGER BE NEEDED, OR IT MAY NEED TO BE UPDATED.**

SUBARTICLE 3.

PROCEEDINGS

103-821. Proceedings.

A. Nature of Proceedings. If required by law and upon filing of a pleading as set forth in R. 103-821B, proceedings for the purpose of rulemaking, ratemaking, licensing, determining rights, duties, or privileges of any party, and undertaking an official inquiry for the purposes of gathering information or making determinations, which fall under the jurisdiction of the Commission, shall be conducted by one or more Commissioners through the development of a formal record. **THE HILIGHTED LANGUAGE MAY NOT BE RELEVANT UNDER THE NEW STATUTE.**

B. Initiation of Proceedings.

(1) All formal proceedings shall be initiated by filing with the Chief Clerk at his business offices at the Commission one original and five copies of an appropriate pleading unless

otherwise provided, as designated in R. 103-830, et seq. A copy of any such pleading must be served upon the Office of Regulatory Staff.

C. Conduct of Proceedings.

(1) All pleadings initiating proceedings shall be dated upon receipt and shall be assigned a docket number after filing, and all subsequent pleadings or correspondence shall refer to that docket number. Formal pleadings will be captioned in accordance with R. 103-830, et seq., and shall be processed pursuant to these rules.

(2) The Chief Clerk after filing of the pleadings shall give the Commission notice of such filing at the next regular meeting of the Commission. Where provided by law, any proceeding initiated under these rules may be dismissed without hearing by Order of the Commission within 14 days after the pleading has been accepted for filing, upon the written opinion of the Commission that the pleading on its face shows that a hearing is not necessary in the public interest or for the protection of substantial rights.

(3) After any pleading has been accepted for filing, the Chief Clerk may:

(a) Serve the pleadings, as required, in accordance with R.103-841, or within fourteen (14) days, provide the party filing the pleading a Notice of Filing, and, where required by law, the party at its own expense shall publish one time in newspapers having general circulation in the State, or, if applicable, in newspapers having general circulation in the party's service area. Except for good cause shown, proof of publication must be filed on or before the return date. The Chief Clerk, pursuant to other rules of the Commission, may require that the Notice of Filing be mailed to customers and other persons and a certificate of mailing be filed on or before the return date.

(b) Fix a date for hearing, as soon as practicable, and when a date is available on the docket calendar. If the hearing date has not been included in the Notice of Filing, the Chief Clerk shall prepare a Notice of Hearing, and shall forward by certified mail such Notice of Hearing to all parties. Proof of mailing must be placed in the formal record.

(c) Assign a time and place for any public hearing necessary in the conduct of any proceeding. The Chief Clerk shall likewise cause the pleadings to be served pursuant to these rules or issue written notice of the filing of pleadings which shall be published pursuant to law, and notice of the hearing date assigned for the conduct of any formal proceeding, as provided by law.

(d) Require from a person filing a pleading a letter incorporating a statement presenting the number of witnesses the person expects to offer in the proceeding and an estimate of the time required for the presentation of testimony and exhibits.

(4) Public hearings in the conduct of proceedings shall be held pursuant to R. 103-860, et seq.

D. Final Disposition of Proceedings. Proceedings shall be concluded upon the issuance of an order by the Commission or upon a settlement or agreement reached by all parties to the formal proceedings and formally acknowledged by the Commission by issuance of an order.

103-822. Rulemaking proceedings.

A. Nature of Rulemaking Proceedings. When permitted by law, and upon the filing of a pleading, pursuant to R. 103-821B, formal proceedings for the purpose of rulemaking shall be conducted by one or more Commissioners through the development of a formal record.

B. Initiation of Rulemaking Proceedings. Rulemaking proceedings shall be initiated by the process identified in R. 103-821B.

C. Conduct of Rulemaking Proceedings.

(1) Pleadings filed with the Commission initiating rulemaking proceedings shall be processed pursuant to R. 103-821C(1) and (2).

(2) General notice of proposed rulemaking proceedings shall be made in accordance with applicable provisions of law.

(3) The Commission shall provide an opportunity to interested parties for participation in the rulemaking proceeding through submission of written data, views or arguments with or without opportunity for oral presentation.

D. Final Disposition of Rulemaking Proceedings. Rulemaking proceedings shall be concluded upon the issuance of an order by the Commission issuing, amending, or repealing a rule or rules, and containing a concise general statement of the basis and purpose of such rule or rules. Publication of such rule or rules shall be made in accordance with applicable provisions of law.

SUBARTICLE 4.

PLEADINGS

103-830. General Contents of Pleadings.

All pleadings in proceedings before the Commission to which docket numbers have been assigned shall prominently display such docket numbers. All pleadings shall also include the following information:

A. The legal name and address of each person by whom such pleading is filed;

B. The full name and address of the authorized representative of the person filing the pleading;

C. A concise and cogent statement of the facts such person is prepared to present to the Commission;

D. A statement identifying the specific relief sought by the person filing the pleading.

103-831. General Form of Pleadings.

All pleadings filed in proceedings before the Commission should 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 a left-hand margin not less than 1 1/2 inches wide and other margins not less than 1 inch wide. The impression shall be on one side of the paper only.

103-832. Copies of Pleadings.

Pleadings shall be filed in one original and 10 copies, unless otherwise specified by the Division Director. Mimeographed or photocopied copies will be accepted as typewritten, provided all copies are clearly legible. **THE COMMISSION SHOULD CONSIDER A RULE PERMITTING ELECTRONIC FILING AND ELIMINATING OR REDUCING THE REQUIREMENT THAT PAPER COPIES BE FILED.**

103-833. Signature and Verification.

All pleadings filed with the Commission shall be signed. The signature of the person, or its authorized representative, submitting the pleading, shall constitute an admission that such person or representative has read the pleading and knows the contents thereof, and, if the signatory is acting in a representative capacity, that such signatory has the capacity and authority specified therein. A verification under oath shall be required if facts are alleged to be true within the knowledge of the person filing the pleading.

103-834. Applications.

Applications are submitted to the Commission for any authorization or permission which the Commission is empowered to grant under its statutory authority, including applications for establishment or adjustment of rates and charges.

A. Content of Applications. Applications shall state clearly and concisely the authorization or permission sought, and shall refer to the specific statutory provision or other authority under which Commission authorization or permission is sought. Applications shall further set forth the following information:

(1) The precise legal name of the applicant, which shall indicate whether the applicant is a partnership, corporation, association, establishment, governmental subdivision, or other public or private organization.

(2) The name, title, address and telephone number of the person to whom correspondence or communications relative to the application is to be addressed.

(3) The following data, in general rate establishment or adjustment applications, attached as exhibits and developed for a historic twelve-month test period unless otherwise directed:

(a) Balance sheet;

(b) Profit and loss statement;

(c) Accounting and pro forma adjustments;

(d) Computation of proposed increase or decrease;

(e) Effect of proposed increase or decrease to include copies of present and proposed tariffs;

(f) Statement of fixed assets and depreciation reserve;

(g) Rates of return on rate base and on common equity.

(4) All other information required by statute or by the Commission's Rules and Regulations under which a specific type of application is filed, or as may be required by the Commission in a particular proceeding.

B. Form of Applications. Except where otherwise prescribed by the Rules and Regulations of the Commission under which a specific type of application is filed, applications shall conform to the requirements of R. 103-830 through R. 103-833.

103-835. Complaints.

Any person complaining of anything done or omitted to be done by any person under the statutory jurisdiction of the Commission in contravention of any statute, rule, regulation or order administered or issued by the Commission, may file a written complaint with the Commission, requesting a proceeding.

A. Contents of Complaints. A written complaint filed with the Commission shall contain the following information:

(1) The name, address and telephone number of the person making the complaint and of his authorized representative, if he is represented.

(2) The name and address of the person about whom the complaint is made.

(3) A concise and cogent statement of the factual situation surrounding the complaint. If a complaint relates to an act, rule, regulation or order administered or issued by the Commission, or to a provision in a tariff or contract on file with the Commission, the act, rule, regulation, order, tariff or contract should be specifically identified in the complaint.

(4) A concise statement of the nature of the relief sought.

B. Form of Complaints. A complaint filed pursuant to this section shall conform to the requirements of R. 103-830 through R. 103-833.

C. Joinder of Complaints. Two or more grounds of complaint concerning the same subject or set of facts may be included in one complaint, but should be separately stated and numbered. Two or more complainants may join in one complaint if their respective causes of complaint are against the same defendant or defendants, and if they involve substantially the same purpose, subject or set of facts.

103-836. Petitions.

Petitions may be submitted to the Commission for any relief, other than for an adjustment of rates and charges, which the Commission is empowered to grant under its statutory authority. Petitions which may be filed include: Petition for Rulemaking, Petition for a Declaratory Order, Petition to Intervene, and Petition for Rehearing or Reconsideration.

A. Content of Petitions. Petitions shall state clearly and concisely the petitioner's grounds of interest in the subject matter, the facts relied upon, and the relief sought. Petitions shall cite by appropriate reference the statutory provision or other authority relied upon for relief. The following requirements are applicable to specific types of Petitions:

(1) A Petition for Rulemaking shall set forth clearly and concisely:

(a) The petitioner's interest in the subject matter;

(b) The specific rule, amendment, waiver or repeal requested;

(c) The statutory provision or other authority therefore;

(d) The purpose of, and the grounds requiring, the proposed rulemaking.

(2) A Petition for Declaratory Order to determine applicability of any statute or of any rule or order of the Commission shall state clearly and concisely:

(a) A full disclosure of the petitioner's interest;

(b) The uncertainty which is the subject of the petition;

(c) The statutory provision or other authority involved;

(d) A complete statement of the facts prompting the petition.

(3) A Petition to Intervene in a formal proceeding before the Commission shall set forth clearly and concisely:

(a) The facts from which the nature of the petitioner's alleged right or interest can be determined;

(b) The grounds of the proposed intervention;

(c) The position of the petitioner in the proceeding.

(4) A Petition for Rehearing or Reconsideration shall set forth clearly and concisely:

(a) The factual and legal issues forming the basis for the petition;

(b) The alleged error or errors in the Commission order;

(c) The statutory provision or other authority upon which the petition is based.

B. Form of Petitions. With the following exception for Petitions to Intervene, all petitions shall conform to the requirements of R. 103-830 through R. 103-833. Handwritten Petitions to Intervene may be accepted by the Commission, if legible.

103-837. Answers.

Answers are submitted to the Commission in response to complaints and petitions. Answers are not required to Petitions for Rehearing or Reconsideration.

A. Content of Answers.

(1) Answers shall be drawn so as to advise fully and completely the Commission and any party as to the nature of the defense. Answers shall admit or deny, specifically and in detail, each material allegation of the pleading answered, and shall state clearly and concisely the facts and law relied upon.

B. Form of Answers. Except as provided in R. 103-837A all answers shall conform to the requirements of R. 103-830 through R. 103-833.

103-839. Amendments.

Any modification or supplement to a pleading shall be deemed an amendment to the pleading, and shall comply with the particular requirements of content and form for the type of pleading so amended. Upon its own motion or upon motion duly filed by a party of record, the Commission may for good cause decline to permit, or may strike in whole

or in part, any amendment. No amendment to a pleading may be filed within ten (10) days prior to the commencement of or during a hearing unless directed or permitted by the Commission or hearing officer after opportunity for all parties of record to be heard thereon.

103-840. Motions.

A. Certain motions will be reduced to writing and filed with the Chief Clerk at least ten (10) days prior to the commencement of a hearing. Such motions shall include motions for a special appearance, motions to object to the jurisdiction of the Commission, and motions to strike a portion of a pleading filed by any party in a proceeding. Written motions to quash a subpoena will be made pursuant to R. 103-850G.

B. The Commission, in its discretion and upon due notice to all parties of record, may entertain oral argument and response on prefiled motions in advance of the scheduled hearing in the proceeding to which the motions pertain. Otherwise, such argument and response shall be made at the commencement of the hearing. The presiding officer may make a ruling upon such motion at the completion of oral argument, at the conclusion of the hearing, or in the written order making disposition of the subject matter of the proceeding.

103-841. Filing and Service of Pleadings.

All pleadings shall be filed with the Chief Clerk of the Commission and served on the Office of Regulatory Staff unless it has chosen not to participate in the proceeding pursuant to S.C. Code Ann. §58-4-50(A)(10).

A. Service of Applications. If a person other than the applicant is named in an application, the Chief Clerk will cause to be mailed to that person a copy of the notice of filing within ten days of the filing date. The person, other than the applicant, shall file its answer, if required, within twenty days of the receipt of the notice of filing.

B. Service of Complaints and Answers.

(1) A complainant requesting a hearing shall file the complaint with the Chief Clerk. The Chief Clerk shall mail a copy of the complaint to the defendant and to the Office of Regulatory Staff within 14 days of filing.

(2) The defendant shall serve its answer on the complainant and shall file its answer with certification of service with the Commission within 30 days of receipt of the complaint, unless an extension of time is granted for good cause shown. Any defendant failing to file its answer within such period, unless an extension of time is granted, shall be deemed in default and all relevant facts stated in such complaint may be deemed admitted.

C. Service of Petitions and Answers.

(1) If a person other than the petitioner is named in a petition for a declaratory order, the Chief Clerk shall cause a copy of the petition to be mailed to such named person and to the Office of Regulatory Staff within 14 days of the filing of the petition.

(2) The person named in a petition for a declaratory order shall serve its answer on the petitioner and shall file its answer with certification of service with the Chief Clerk within 30 days of the receipt of the petition from the Chief Clerk unless an extension of time is granted for good cause shown.

(3) A person filing a petition to intervene or a party of record filing a petition for rehearing or reconsideration shall file the petition with certification that service of the petition has been made on all parties of record. The Chief Clerk shall make available to the person seeking to intervene a service list consisting of the names of all parties of record.

D. Service of Amendments. Any amendment to a pleading shall be served and answered, if applicable, according to the requirements specified herein for the type of pleading sought to be amended.

103-842. Computation of Time.

Except as otherwise provided by law, computation of the time period for mailing or serving a pleading shall not include the actual day of the filing of the pleading with the Commission, but the last day of the required time period shall be included unless that day is a Saturday, Sunday or legal holiday. Extensions of time may be granted by the Commission for good cause shown.

SUBARTICLE 5.

SUBPOENAS; INTERROGATORIES; DEPOSITIONS; DATA REQUESTS

103-850. Subpoenas and Subpoenas Duces Tecum.

A subpoena or subpoena duces tecum may be issued under the signature of the Chief Clerk. Subpoenas and subpoenas duces tecum shall show at whose instance they are issued.

A. Subpoenas Duces Tecum. Unless directed by the Commission upon its own motion, a subpoena to compel a witness to produce documentary evidence will be issued only upon written request to the Chief Clerk showing general relevance and reasonable scope of the evidence sought, which request must also specify with particularity the books, papers, or documents desired, and the facts expected to be proved thereby. Provided, however, that for good cause shown, in lieu of written request, the request for such a subpoena may be made orally upon the record to the presiding officer at the hearing.

B. Subpoenas. A request for issuance of a subpoena, other than to compel the production of documentary evidence, may be made either by letter addressed to the Chief Clerk or orally upon the record to the officer presiding at the hearing.

C. Service. The original subpoena or subpoena duces tecum shall be exhibited to the individual served, and a copy thereof shall be delivered to him by the individual making service.

D. Proof of Service. The individual serving the subpoena or subpoena duces tecum shall make affidavit thereof, stating the date, time and manner of service and return to the Chief Clerk such affidavit on, or with, the original subpoena or subpoena duces tecum in accordance with the form thereon. In case of failure to make service, the reasons for failure shall be stated on the original subpoena or subpoena duces tecum. The written acceptance of service of a subpoena or subpoena duces tecum by the person named therein shall be sufficient without other evidence of such service. The original subpoena or subpoena duces tecum, bearing or accompanied by the required affidavit or acceptance of service, shall be returned forthwith to the Chief Clerk.

E. Time. No subpoena or subpoena duces tecum will be issued, without good cause shown, less than four days prior to the date that the individual served with the subpoena or subpoena duces tecum is required to act unless the individual being served desires to waive all or any portion of the four days.

F. Enforcement. The Commission may ask the Office of Regulatory Staff to seek the enforcement of a subpoena or subpoena duces tecum by requesting that the Court of Common Pleas, or a judge thereof, compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena or subpoena duces tecum issued from such court or a refusal to testify therein.

G. Motion to Quash. Any person or entity who is compelled to act by force of subpoena or subpoena duces tecum and who objects thereto shall file written motion to quash, setting forth the reasons the subpoena or subpoena duces tecum should not be obeyed, or make an oral motion at the hearing, stating the reasons the subpoena or subpoena duces tecum should not be obeyed. Time permitting, the Commission will, by order or otherwise, rule on the motion to quash a subpoena or subpoena duces tecum prior to the hearing. If time prevents such ruling, the presiding officer may rule on such motion at the commencement of the hearing provided such motion is renewed at that time. The person or entity filing a motion to quash a subpoena duces tecum is not required to produce any documents pursuant to the subpoena before the Commission has ruled on the motion to quash.

103-851. Written Interrogatories.

BY DELETING THIS SECTION, THE RULES OF CIVIL PROCEDURE WILL GOVERN THE SCOPE OF DISCOVERY.

A. Unless under special circumstances and for good cause shown, written interrogatories shall not be served less than 10 days prior to the date assigned for commencement of hearing. Any party of record may serve upon other parties written interrogatories to be answered by the party served. If the party served is a public or private corporation, partnership, association, or governmental agency, any officer or agent who possesses the desired information may respond to the interrogatories. Copies of interrogatories served shall also be filed with the Chief Clerk and provided to the Office of Regulatory Staff. Each interrogatory shall be answered separately and fully in writing, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the individual making them and subscribed by an appropriate verification. Objections are to be signed by the authorized representative or individual making them. The person upon whom the interrogatories have been served shall serve a copy of the answers and objections within the time period designated by the party of record submitting the interrogatories, but not less than 10 days after the service thereof, unless the time is extended by the Commission for good cause shown or by agreement of the party responding to the interrogatory and the party serving the interrogatory. Copies of answers and objections, if any, shall be provided to the Office of Regulatory Staff.

103-852. Depositions.

Any party of record to a proceeding may, by written request, ask the Commission for leave to take the testimony of any witness by deposition. The request shall set forth the facts the requesting party seeks to establish by the deposition. Such written request shall be filed with the Commission at least 10 days prior to the commencement of the scheduled hearing. The requesting party shall give notice by providing a copy of the written request to each party of record to the proceeding. If the Commission deems the request meritorious, it may issue an Order designating the individual whose deposition may be taken, specifying the subject matter of the examination, and setting forth the time and place of such deposition, and whether it shall be written or oral examination. All costs incidental thereto shall be paid by the party desiring such deposition. If the request is not deemed meritorious, the written request shall be denied by Order or otherwise.

103-854. Other Discovery Procedures

The S. C. Rules of Civil Procedure govern all discovery matters not covered in Commission Regulations 103-850 through 103-852.

SUBARTICLE 6.

HEARINGS

103-860. How Hearings are Set.

The Commission will assign a time and place for hearing and shall give notice thereof as required by law.

103-861. Hearing Calendar.

The hearing calendar will be posted in the office of the Chief Clerk of the Commission and shall be available for inspection by the public during the office hours of the Commission. Proceedings pending upon this calendar will be heard in their order of assignment, so far as practicable, at the times and places fixed, provided, however, in its discretion, with or without motion, the Commission may, at any time with reasonable notice to the parties, advance or postpone any proceeding on the hearing calendar.

103-862. Continuance.

Any party of record desiring a continuance shall, immediately upon receipt of notice of the hearing or as soon thereafter as facts requiring such continuance come to its knowledge, notify the Chief Clerk, stating in detail the reasons why such continuance is necessary. Unless good cause is shown, no such continuance shall be granted.

103-863. Prehearing Conferences.

A. Purposes. Upon written notice by the Commission in any formal proceeding, parties of record or their authorized representative may be directed to meet before a designated Commissioner or Hearing Officerat a specified time and place for a conference, prior to a hearing, for the purpose of formulating issues, and considering:

(1) The simplification of issues;

(2) The necessity or desirability of amending the pleadings for the purposes of clarification, amplification or limitation;

(3) The possibility of obtaining admissions of fact and documents which will avoid unnecessary proof;

(4) Limitations on the number and consolidation of the examination of witnesses;

(5) The procedure at the hearing;

(6) The distribution of written testimony and exhibits to the parties prior to the hearing;

(7) Any other matters as may aid in the disposition of the proceeding, or settlement thereof.

B. Report of Stipulations. Following the prehearing conference, a proposed Report of Stipulations, reciting the action taken at the conference, amendments allowed to the pleadings, if any, and agreements, if any, made by the parties of record concerning all of the matters considered, shall be provided to the parties of record or their authorized representatives for approval. If no objection to the Report of Stipulations is filed within

ten days after the date such Report is mailed, it shall be deemed to be approved. This Report, when approved, shall limit the issues to be heard at the hearing to those not disposed of by admissions or agreements of the parties or their authorized representative and will control the subsequent course of the formal proceeding unless modified at the hearing to prevent manifest injustice.

103-864. Consolidated Hearings.

The Commission, upon its own motion or upon motion by any party, may order two or more formal proceedings involving a similar question of law or fact to be consolidated for hearing where rights of the parties or the public interest will not be prejudiced by such procedure.

103-865. Presiding Officer.

A. In General. When evidence is to be taken in a formal proceeding before the Commission, any Commissioner designated by the Commission may preside at the hearing.

B. Powers and Duties of Presiding Officer. A presiding officer shall have the duty to conduct full, fair, and impartial hearings, to take appropriate action to avoid unnecessary delay in the disposition of proceedings, and to maintain order; and shall possess all powers necessary to that end, including the following:

(1) To administer oath and affirmations;

(2) To order subpoenas issued and to provide for other methods of discovery;

(3) To receive evidence and rule upon all objections and motions which do not involve final determination of proceedings;

(4) To take such other action as may be necessary and appropriate to the discharge of duties consistent with the statutory authority or other authorities under which the Commission functions.

C. Report of Presiding Officer. When a majority of the Commissioners do not hear a proceeding or read the record thereof, the presiding officer shall mail to the parties of record a proposed Order. The proposed Order shall contain a statement of facts relied upon in formulating such Order and each issue of fact or law necessary to it. Any party of record will then have ten days in which to file exceptions, present briefs, and file written requests for oral argument to the Commission, if it is desired to do so. If exceptions and briefs are filed within the prescribed time period, the Commission will consider the points raised therein and will issue its Order based upon the record of the formal proceeding, the proposed Order, and the exceptions and briefs filed. If a written request for oral argument is filed, the Commission will establish a date for such oral argument to be heard and will notify all parties of record as to date, time and place for such argument. Thereafter, the

Commission will issue its Order based upon the record of the formal proceeding, the proposed Order, any exceptions and briefs filed, and the oral argument presented. If no exceptions, briefs, or written requests for oral argument are received within the prescribed ten days, the Commission will issue its Order based upon the record of the formal proceeding and the proposed Order.

103-866. Order of Procedure.

A. Proceedings Initiated by the Office of Regulatory Staff. In proceedings initiated by the Office of Regulatory Staff, evidence in a formal proceeding will ordinarily be received in the following order:

(1) Office of Regulatory Staff;

(2) Respondent;

(3) Other parties.

B. Applications and Petitions. Evidence will ordinarily be received upon applications and petitions in the following order:

(1) Applicant or Petitioner;

(2) Other parties;

(3) Office of Regulatory Staff.

C. Formal Complaint. Evidence will ordinarily be received upon complaints in the following order:

(1) Complainants;

(2) Respondents;

(3) Other parties;

(4) Office of Regulatory Staff.

103-867. Standard of Conduct.

All individuals acting in a representative capacity in formal proceedings before the Commission shall conform to the standards of ethical conduct required of attorneys before the courts of this State. If any such individual does not conform to such standards, the Commission may decline to permit such individual to act in a representative capacity in any proceeding before the Commission.

103-868. Failure to Attend Designated Hearing.

A. At the time and place set for hearing, if an applicant, petitioner, or complainant fails to attend personally or through an authorized representative without having obtained a continuance in the manner specified in R. 103-862, the Commission may dismiss the petition, application, or complaint with or without prejudice or may, upon good cause shown, recess such hearing for a further period to be set by the Commission to enable such applicant, petitioner, or complainant to attend.

B. Parties of record or their authorized representative shall be present during all proceedings of any scheduled matter pending before the Commission except upon leave of the presiding officer.

103-869. Witnesses.

A. In General. Witnesses shall be examined orally. Witnesses presenting testimony shall be sworn, or shall affirm, before their testimony shall be deemed evidence in the proceeding or any questions are put to them.

B. Cumulative Testimony Restricted. The presiding officer may limit the number of witnesses whose testimony may be merely cumulative. In order to enforce this section, the presiding officer may require a clear statement on the record of the nature of the testimony to be given by any witness proffered.

C. Prepared Statements and Exhibits. A witness may read into the record, as his direct testimony, statements of fact or expressions of his opinion prepared by him, or written answers to interrogatories of counsel. A prepared statement of a witness may also be received as an exhibit. All parties of record, insofar as it is practicable, should prefile with all other parties of record copies of prepared testimony and exhibits which the party of record proposes to use during a hearing. In proceedings involving utilities, the Commission shall require any party and the Office of Regulatory Staff to file copies of testimony and exhibits and serve them on all other parties of record within a specified time in advance of the hearing. In proceedings involving companies other than utilities, the Commission may require any party and staff to file copies of testimony and exhibits and serve them on all other parties of record within a specified time in advance of the hearing. When prepared testimony and exhibits are prefiled with the Commission, twenty-five copies, unless otherwise specified, of such testimony and exhibits must be furnished to the Commission for the use of the Commission and Staff. **THE COMMISSION SHOULD CONSIDER A RULE PERMITTING ELECTRONIC FILING AND ELIMINATING OR REDUCING THE REQUIRMENT THAT PAPER COPIES BE FILED.**

103-870. Evidence.

A. In General. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in the Court of Common Pleas shall be

followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted, except where precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

B. Reception and Ruling on Proffered Evidence. The presiding officer shall rule on the admissibility of all evidence and shall otherwise control the reception of evidence so as to confine it to the issues in the hearing.

C. Notice of Cognizable Facts. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties of record shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed. Parties shall be afforded an opportunity to contest the material proposed to be noticed.

103-871. Documentary Evidence.

A. Commission Files. In case any matter contained in a report or other document on file with the Commission is offered in evidence, such report or other document need not be produced or marked for identification, but may be offered in evidence by specifying the report, document, or file containing the matter so offered.

B. Records in Other Proceedings. If the transcript, or any portion thereof, of another proceeding before the Commission is desired to be introduced into the formal record at a subsequent hearing, a true copy of the portion desired must be presented.

C. Abstracts of Documents. When documents are numerous, such as freight bills or bills of lading, and it is desired to offer in evidence more than a limited number of such documents as typical of the others, an abstract of relevant data of such documents shall be prepared in an orderly manner and offered as an exhibit, giving other parties to the proceeding reasonable opportunity to examine both the abstract and the documents.

103-872. Exhibits.

A. SIZE OF EXHIBITS. Except by special permission of the presiding officer, no prepared exhibits offered as evidence shall be of greater size, when folded, than 8 1/2 inches by 11 inches.

B. Copies of Exhibits. When exhibits are offered in evidence, the original shall be furnished to the reporter, and the party offering exhibits should also be prepared to furnish a copy to each Commissioner sitting and the presiding officer, each party of

record, and the staff, unless such copies have been previously furnished or the presiding officer directs otherwise. Whenever practicable, the parties should exchange copies of exhibits which they propose to use prior to the hearing.

C. Marking of Exhibits. All exhibits shall be marked numerically in the order of identification.

103-873. Objections to the Introduction of Evidence.

A. In General. Any evidence offered in whatever form shall be subject to appropriate and timely objection. When objection is made to the admissibility of evidence, such evidence may be received subject to later rulings by the presiding officer. The presiding officer, in his discretion, either with or without objection, may exclude inadmissible, incompetent, cumulative, or irrelevant evidence, or order the presentation of such evidence discontinued. Parties objecting to the introduction of evidence shall briefly state the grounds of objection at the time such evidence is offered.

B. Offers of Proof. When the presentation of any evidence is objected to and such objection is sustained by the presiding officer, the proponent of the evidence may request that she or he be allowed to present an offer of proof for the formal record. Such offer of proof shall consist of a statement of the substance of the evidence to which objection has been sustained, or if the excluded evidence consists of evidence in documentary or written form, a copy of such evidence shall constitute the offer of proof.

103-874. Transcripts.

A. In General. The Commission will cause to be made a record of all proceedings.

B. Copies of Transcript. Copies of the typewritten transcript of any proceeding may be obtained from the hearing reporters upon request and after payment of the applicable fee.

103-875. Briefs.

A. Due Date. The presiding officer shall fix the time for filing and service of briefs. Without special permission, however, the time in which to file briefs shall not exceed 30 days from the close of the hearing.

B. Table of Contents and Citations. A brief of more than 20 pages shall contain a table of contents showing arguments presented with page references and a list of citations, alphabetically arranged with references to the pages where they appear.

C. Scope of Briefs. Briefs should contain:

(1) A concise statement of the case;

(2) An abstract of the evidence relied upon, preferably assembled by subjects;

(3) Factual and legal arguments, or, if desired, a proposed Order together with reasons and authorities therefor.

D. Exhibit Reproduction. Exhibits may be reproduced in an appendix to the brief. Analysis of such exhibits should be included in the abstract of evidence under the subjects to which they pertain.

E. Filing and Service. Briefs must be filed with the Chief Clerk and served on parties of record on or before the date fixed. If not filed on or before the date fixed, the brief will not be received without permission from the Commission or the presiding officer. All briefs shall be accompanied by a certificate showing service upon all parties of record or their authorized representatives who appeared at the hearing. Ten copies of each brief shall be furnished for the use of the Commission and staff.

103-876. Service of Orders.

All Orders representing final disposition of a formal proceeding shall be filed with the Chief Clerk who shall serve copies thereof upon all parties of record or their authorized representative in the manner provided by S.C. Code Ann. §58-3-150(B).

SUBARTICLE 7.

COMMISSION ORDERS

103-880. Finality of Decision.

All formal proceedings before the Commission shall be disposed of by issuance of an Order as defined in R. 103-804T served upon all parties of record.

A. Effective Date of Orders. Commission Orders shall take effect and become operative as set forth in S.C. Code Ann. §58-3-250(B).

B. Rescinding, Modifying, Amending Order or Decision. The Commission may rescind, modify, or amend any Order after notice and after opportunity to be heard in the case of compliance. Any Order rescinding, modifying or amending a prior Order, after notice to the parties, shall have the same effect as is provided for in original Orders, but no such Order shall affect the legality or validity of any acts done pursuant to the original Order before notice of such rescission, modification, or amendment.

103-881. Petition for Rehearing or Reconsideration.

Unless otherwise provided by law, no cause of action shall accrue in any court of competent jurisdiction to vacate or set aside any Order of the Commission, either in whole or in part, unless a petition for rehearing or reconsideration and proof of service are filed with the Commission, and an Order has been issued disposing of the matter.

A. Form, Contents of Petition for Rehearing or Reconsideration. All petitions for rehearing or reconsideration shall conform to R. 103-836.

B. Time limit for filing a petition for rehearing or reconsideration. Except as otherwise provided by law, including without limitation S. C. Code Ann., Section 58-5-330, 58-9-1200, 58-11-550, 58-27-2150 (1976), any party of record may, within 20 days after the date of receipt of Order, petition the Commission for rehearing or reconsideration. A Petition for Reconsideration shall be subject to the same statutory parameters as a Petition for Rehearing.

C. Action by the Commission. The Commission must act upon the petition for rehearing or reconsideration within thirty (30) days after such petition is filed except as otherwise provided by law, including without limitation, S. C. Code Ann., Section 58-5-330, 58-9-1200, 58-11-550, 58-27-2150 (1976). Failure to act within this time period shall be deemed a denial of the relief sought in the petition.

D. Effect of Filing a Petition. Filing a petition shall not excuse or delay compliance with an Order issued by the Commission, unless specifically provided by the Commission.

103-882. Presiding Officer's Proposed Report.

In the event a presiding officer hears a matter before the Commission, the parties of record may, by stipulation, waive the preparation of a proposed report. Parties of record may file exceptions to the proposed report pursuant to R. 103-865C.

103-883. Appellate Review.

A. In General. After a request for rehearing is denied or is deemed denied, a party of record may appeal a Commission Order to the appropriate judicial forum pursuant to applicable provisions of law.

B. Stay of Commission Order Pending Review. Except as otherwise provided by law, an appeal from an Order of the Commission shall not of itself stay or suspend operation of the Order of the Commission.

C. Transcript of Testimony. A transcript of the proceeding will be furnished upon request to the Commission's hearing reporters, stating the number of copies desired, the person to be billed and the person to whom the transcript is to be sent.

D. Record on Appeal. Unless otherwise required by law, in any action to review a final decision of the Commission, the record shall consist of all items set forth in R. 103-804G.

E. Stipulations. The Commission, and any party of record appealing a Commission Order, may stipulate that a certain question or questions and a specified portion of the evidence shall be certified to the Court for its judgment, whereupon such stipulation and

the question or questions and the evidence therein specified shall constitute the record on view.

F. Priority. Cases appealed from the Commission shall have priority where such is given by statute.

103-884. Penalty Provisions.

A. In General. Any fine or penalty assessed against any person as allowed by statute, may be imposed in accordance with applicable provisions of law and these rules as established by the Commission.

B. Calculation of Fine or Penalty. The fine or penalty will be incurred and will accrue each day with each day considered a separate breach or violation.

C. Payment of Fine or Penalty. A fine or penalty assessed pursuant to the provisions of these rules shall be paid immediately upon demand by certified check made payable to the State of South Carolina. Failure to honor this demand within ten days shall result in a filing in the appropriate county office or offices, for collection of such fine or penalty as provided by law.

D. Disbursement of Fine or Penalty. All fines or penalties assessed by the Commission shall go into the general funds of the State unless otherwise provided by law.

103-885. General Provisions.

A. Additional Hearings. The Commission may, in addition to other hearings as provided for by rule or statute, conduct such other hearings as may be required in the administration of the Commission's power and duties.

B. Construction. If any provision of these rules or the application thereof is held invalid, the remainder of the rules or other application of such rules shall not be affected.

103-886. Emergency Procedures.

A. When it appears to the Commission Staff that a utility is planning to disconnect its service to a customer(s) in violation of the Commission's Rules and Regulations and under circumstances which prevent the full Commission from meeting to address the issue, upon the request of the Office of Regulatory Staff, any one Commissioner may issue an Order on behalf of the Commission restraining and/or enjoining a utility from disconnecting service or requiring the utility to maintain the status quo with its customer(s) until further Order of the Commission. Thereafter, at the next scheduled Commission meeting with proper legal notice, the full Commission shall consider the Order of the single Commissioner and take such action on the single Commissioner's Order as it deems appropriate.

B. When it appears to the Office of Regulatory Staff that a utility has disconnected a customer's (s') service in violation of the Commission's Rules and Regulations and under circumstances which prevent the full Commission from meeting to address the issue, upon the request of the Office of Regulatory Staff, any one Commissioner may issue an Order on behalf of the Commission requiring the utility to reconnect the service and maintain that status quo until further Order of the Commission. Thereafter, at the next scheduled Commission meeting with proper legal notice, the full Commission shall consider the Order of the single Commissioner and take such action on the single Commissioner's Order as it deems appropriate.

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