

Public Service Commission of South Carolina
Settlement Policies and Procedures
Revised 6/13/2006

The Public Service Commission of South Carolina (PSC) has had a significant number of settlements presented to it in the past year. To assist the parties and the Commission in efficiently and fairly dealing with settlements, to the end that the Commission is able to carry out its statutory duty of assuring that cases brought before it are resolved in a manner consistent with the public interest, the PSC has developed this policy. The following policies and procedures will be followed by the Commission in evaluating the settlements and stipulations presented by parties appearing before the PSC.

I. SETTLEMENTS TO BE ENCOURAGED

The Commission encourages the resolution of matters brought before it through the use of stipulations and settlements. Settlements must be supported by probative evidence.

II. CONSIDERATION OF SETTLEMENTS

When a settlement is presented to the Commission, the Commission will prescribe procedures appropriate to the nature of the settlement for the Commission's consideration of the settlement. For example, the Commission may summarily accept settlement of an essentially private dispute that has no significant implications for regulatory law or policy or for other utilities or customers upon the written request of the affected parties. On the other hand, when the settlement presents issues of significant implication for other utilities, customers or the public interest, the Commission will convene an evidentiary hearing to consider the reasonableness of the settlement and whether acceptance of the settlement is just, fair, and reasonable, in the public interest, or otherwise in accordance with law or regulatory policy. Approval of such settlements shall be based upon substantial evidence in the record.

III. BURDENS OF PROOF

Proponents of a proposed settlement carry the burden of showing that the settlement is reasonable, in the public interest, or otherwise in accordance with law or regulatory policy. Proponents of the settlement should be prepared to call witnesses and argue in favor of the settlement. The Commission may require the further development of an appropriate record in support of a proposed settlement as a condition of accepting or rejecting the settlement.

IV. SETTLEMENT NOT BINDING ON THE COMMISSION

The Commission is not bound by settlements. It will independently review any settlement proposed to it to determine whether the settlement is just, fair and reasonable, in the public interest, or otherwise in accordance with law or regulatory policy. When a settlement is filed, the Commission may accept the settlement, reject the settlement, or require the further development of an appropriate record in support of a proposed settlement. A settlement which fully or partially resolves a proceeding before the Commission shall have no precedential effect on future proceedings. If the Commission rejects the settlement, the matter shall continue, as though no settlement had been presented, and neither the settlement nor its terms shall be admitted in the hearing on the merits.

V. SETTLEMENT PROCEDURES

When all parties to a proceeding reach agreement with regard to all issues in the form of a settlement signed by all parties or their representatives, the following procedures shall be followed:

1. Notice to Commission

Upon the execution of a settlement, the parties shall promptly notify the Commission of the existence of the settlement.

2. Timing of Filing

Parties may file a settlement at any time after the deadline has passed for filing interventions, and are encouraged to file any settlements as soon as possible thereafter.

3. Filing and Scheduling of Hearing

A settlement hearing may be scheduled by the Commission upon the parties' filing of the following:

- a. Copies of any document, pre-filed testimony, financial analysis, or exhibit which support the settlement, and
- b. An explanatory brief and joint motion for the scheduling of a settlement hearing, which shall include a list of proposed witnesses to be presented to support the settlement.

Upon the filing of a complete settlement, executed by all parties, the Commission or an appointed Hearing Officer may, at their discretion, order a continuance of any previously established procedural schedule in the proceeding. If the settlement is filed in sufficient time before the originally scheduled hearing date, that date will generally be used as the date for the settlement hearing. However, in order to allow the Commission adequate time to evaluate the terms of the settlement and the documentation provided in support thereof, if a settlement (including supporting documentation for the settlement) is filed with the Commission less than seven calendar days prior to the originally scheduled hearing date, the Commission reserves the right to postpone the hearing date.

Alternatively, the Commission may elect to commence the settlement hearing on the original hearing date to allow public witnesses to offer testimony and to allow the parties to present evidence supporting the settlement, but thereafter, in order to have sufficient time to review the settlement terms and supporting documents, the Commission may elect to recess the hearing to be reconvened on a subsequent date, at which time witnesses are subject to recall. In no event shall parties wait until time of hearing to announce settlements if they have been executed prior to the day of the hearing. Hearings of matters in which any such settlements are announced at the time of hearing are likewise subject to postponement.

4. Procedure at a Settlement Hearing

At a settlement hearing, the parties shall call witnesses to support the settlement, and shall introduce into evidence the signed settlement document, as well as the supporting documentation and an explanation of the underlying rationale for the settlement. The Commission may require evidence of any facts stipulated, notwithstanding the stipulation of the parties.

If the Commission finds that the record lacks substantial evidence to support the settlement, the Commission may establish procedures for the purpose of receiving additional evidence upon which a decision on the proposed settlement may reasonably be based.