



information, including numerous sets of expert testimonies with corresponding schedules and other workpapers. Such is even more true in contested cases which give rise to discovery. Docket files publicly displayed on TPUC's website illustrate this phenomenon well. Cases – particularly general rate cases – can include dozens of submissions, including minimum filing requirements<sup>1</sup>, petitions, and multiple sets of direct and rebuttal testimonies.<sup>2</sup>

Discovery is a vital part of the regulatory process. Because of the nature of utility regulation, essentially all of the information necessary to examine a matter is retained by a public utility company. Again, using a general rate case as an example, the books and records of a company – along with all of the correlating information necessary to analyze a company's request – is within the custody or control of the company. In order for interested parties and this Commission to analyze a company's request, parties and TPUC Staff must endeavor to seek out and analyze information obtained during discovery.

This Commission and, for the most part, the utilities regulated by this Commission recognize the vital nature of the discovery process. Disputes over discovery requests are rare when compared to other fields of law. This Commission, due no doubt to the expertise it has in the field, liberally grants motions to increase the number of discovery requests that can be issued, and public utilities have primarily been forthcoming with supplying information with limited objections.

That said, the current rule concerning discovery can be modified to better serve the needs of public utilities and the various interested parties appearing before this Commission. Tennessee R. & Reg. 1220-01-02-.11(5)(a) states:

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<sup>1</sup> Minimum filing requirements are sometimes referred to as minimum filing guidelines.

<sup>2</sup> For instance, in TPUC Docket No. 18-00017, the most recent general rate case filed by Chattanooga Gas Company, CGC submitted its minimum filing guidelines and the pre-filed direct testimonies and accompanying workpapers of ten expert witnesses. It subsequently submitted fourteen sets of pre-filed rebuttal testimony.

No party shall serve on any other party more than forty (40) discovery requests including sub-parts without first having obtained leave of the Commission or a Hearing Officer. Any motion seeking permission to serve more than forty (40) discovery requests shall set forth the additional requests. The motion shall be accompanied by a memorandum establishing good cause for the service of additional interrogatories or requests for production. If a party is served with more than forty (40) discovery requests without an order authorizing the same, such party need only respond to the first forty (40) requests.

As discussed in more detail below, due to the needs of regulatory cases, 40 discovery requests is insufficient for interested parties and the Commission to properly analyze matters.

Limits to discovery that curtail parties from seeking adequate information regarding a case serve only to benefit the regulated entities this Commission is tasked with overseeing. Public utilities – the only repositories of the business and financial information necessary to evaluate a case – already have a significant advantage in most proceedings by having access throughout the year to their records. Companies also typically determine when cases – particularly general rate cases – are filed. Intervenors and Commission Staff must work quickly to address requests, often within statutory time constraints. Discovery is the primary, and in fact one of the only, methods intervenors and TPUC Staff have to perform their duties to review these utilities' filing.<sup>3</sup>

Also, worth noting is the professional regulatory staff employed by public utilities – and whose costs are largely recovered from ratepayers. These individuals serve to guide public utilities through the regulatory process and provide information pertaining to dockets to intervenors and the Commission. They also have the benefit of unbridled access to companies' records throughout the year. Therefore, utilities are uniquely well-positioned to provide

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<sup>3</sup> Another factor contributing to the need for extensive discovery is the frequent adoption during general rate cases of future test periods. Utilities often seek to utilize future test periods in determining rates, but these budgets can be highly speculative, out of sync with prior periods, and based on hard-coded numbers that refer to a company's plans rather than to actual accounts. If a public utility seeks Commission adoption of such a period, extensive discovery is necessary and the limit to 40 requests is insufficient to address even this one area of a case.

responses to discovery concerning regulatory filings. Doing so is crucial to the success of the regulatory process and only fair given public utilities' state-sanctioned monopoly status.

In order to update the Commission's rule concerning discovery, the Consumer Advocate would propose eliminating the limit to 40 requests and instead tying the discovery standard to reasonableness.<sup>4</sup> Instead of the current language, -11(5)(a) should read:

Parties to proceedings are encouraged to exchange information informally. Parties will also be permitted to serve formal discovery requests as deemed reasonable and necessary by the hearing officer. While there is no limit within these rules to the number of discovery requests that may be issued, discovery requests must be reasonable and pertain to issues relevant to the proceeding. Upon motion and a showing of good cause, a party from whom discovery is sought may seek to limit the number of discovery requests it is required to provide.

This proposed rule would allow parties responding to discovery to be protected from unnecessary or unreasonable discovery requests while allowing discovery to be flexible based on the needs of individual cases. Clearly not all cases before TPUC are comparable; even general rate cases vary widely in size and scope. As a result, crafting a blanket rule limiting discovery to a certain number of requests is not practical, and the Commission should be able to address limits to discovery – if they are necessary – on a case-by-case basis. The Consumer Advocate's proposed rule accomplishes these goals, balancing the need for sufficient discovery requests with appropriate protections from perceived abuse.

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<sup>4</sup> For instance, in Virginia, the State Corporation Commission has the following rule concerning discovery:

The carriers are encouraged to exchange information informally. The carriers will also be permitted to seek leave to conduct such limited formal discovery as deemed reasonable and necessary by the presiding hearing examiner to resolve the contested issues. Whether and the extent to which leave to conduct limited formal discovery should be granted is a matter within the

## **II. THE COMMISSION’S RULES SHOULD BE UPDATED TO REQUIRE NOTICE OF UPCOMING FILINGS TO THE COMMISSION AND INTERESTED PARTIES AS WELL AS NOTICE OF RATE OR TARIFF CHANGES TO CONSUMERS.**

Notice is of paramount importance to regulatory proceedings. As discussed above, regulatory cases are highly technical proceedings that require large amounts of review and analysis during confined timeframes. At the same time, the results of proceedings have real world implications as consumers – who when using essential utility services have no choice other than the utility granted monopoly rights to their service territory – must ultimately live with the rates and policies determined by the Commission. Therefore, the Commission’s rules should be revised to include requirements for notice 1) to the Commission and other interested parties that a public utility intends to file a matter, and 2) to consumers that rate or other tariff changes have either been requested or will soon go into effect.

First, the Commission’s rules should be revised to require a public utility to notify the Commission, the Attorney General<sup>5</sup>, and all parties of record appearing in the public utility’s last rate case at least 60 days in advance of filing a general rate case.<sup>6</sup> Because such matters are highly technical and frequently involve a detailed amount of financial data, both the Commission and other interested parties need time to prepare for an increased workload and to seek approval

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discretion of the presiding hearing examiner. 20 Va. Admin. Code 5-405-100.

<sup>5</sup> The Consumer Advocate is created by statute within the Attorney General’s Office and “has the duty and authority to represent the interests of Tennessee consumers of public utilities services.” Tenn. Code Ann. § 65-4-118(b)(1). Therefore, we would respectfully request to be included explicitly in the Commission’s rules regarding notice as the Tennessee General Assembly has explicitly tasked this Office with representing the interests of consumers in matters before TPUC.

<sup>6</sup> The state of Virginia requires comparable notice to be made to its State Corporation Commission. Virginia’s rules state that: “[a]n applicant shall provide a notice of intent to file an application [. . .] to the commission 60 days prior to the application filing date.” 20 Va. Admin. Code 5-204-10 (“General filing instructions”).

to undertake the costs of retaining expert witnesses. With statutory time constraints, the need for advance notice is even more important. Thus, it would be valuable if public utilities provided notice of their upcoming filings for rate or tariff changes. A 60-day notice requirement prior to filing will allow for the Commission, TPUC Staff, and interested parties to be better prepared for hearings, thereby better facilitating the process of setting just and reasonable rates and serving the public interest.

Second, the Commission's rules should be revised to require more thorough and updated notice to consumers. The Commission's current rules only require that public notice be made in a newspaper of general circulation and at the utility's business office.<sup>7</sup> These public notice rules are outdated and fail to account for changes in technology and communication preferences.

The public notice rules should be modernized so that a greater majority of consumers are informed of the public utility's proposed rate increase and of their right to participate in the rate revision process. Requiring public utilities to place notice on bill inserts (electronically and/or printed) and to include public notice on their websites (provided the public utility maintains a website) will more efficiently achieve the goal of consumer awareness.<sup>8</sup>

Other states have also modernized their public notice requirements and require public utilities to provide consumers with thorough notice of their proposed rate increases. For instance, Florida's rules include the following public notice requirements for electric and gas utilities when filing for a general rate increase:<sup>9</sup>

**Fla. Admin. Code R. 25-22.0406. Notice and Public Information on General Rate Increase Requests and Petitions for Limited Proceedings by Electric and Gas Utilities.**

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<sup>7</sup> See Tennessee R. & Reg. 1220-04-01-.05(1).

<sup>8</sup> It should also be noted that modernizing the rules in this manner will reduce the costs that public utilities currently incur through providing notice through newspaper publication.

<sup>9</sup> Florida also requires similar public notice rules for general rate increase requests by Water and Wastewater Utilities. See Fla. Admin. Code R. 25-22.0407.

(2) The following noticing procedures apply to requests for a general rate increase:

. . .

(a) The utility must establish a clearly identifiable link on the utility's website to the address on the Commission's website that provides electronic access to all documents filed in the rate case.

. . .

(e) Within 15 days after the rate case time schedule has been posted on the Commission's website, the utility must prepare and submit a customer notice to Commission staff for approval. The customer notice must include:

1. A statement that the utility has applied for a rate increase and the general reasons for the request,
2. The locations at which copies of the MFRs and synopsis are available, including the link on the utility's website,
3. The time schedule established for the case, and the dates, times and locations of any hearings that have been scheduled,
4. A comparison of current rates and service charges and the proposed new rates and service charges,
5. The docket number assigned to the petition by the Commission's Office of Commission Clerk,
6. A statement that written comments regarding the proposed changes in rates and charges should be addressed to the Office of Commission Clerk . . . and that such correspondence should include the docket number; and,
7. A statement that comments regarding service may be made to the Commission's Office of Consumer Assistance and Outreach . . .

(f) The utility must begin sending the notice to customers within 30 days after it has been approved by Commission Staff.

Similarly, Kentucky's rules also require a thorough public notice requirement for public utilities to provide their consumers when petitioning to increase their rates. Kentucky's public notice rules state:

**807 Ky. Admin. Regs. 5:001 § 17. Notice of General Rate Adjustment. Upon filing an application for a general rate adjustment, a utility shall provide notice as established in this section.**

...

**(2) Customer Notice.**

- (a) If a utility has twenty (20) or fewer customers, the utility shall mail a written notice to each customer no later than the date on which the application is submitted to the commission.
- (b) If a utility has more than twenty (20) customers, it shall provide notice by:
  - 1. Including notice with customer bills mailed no later than the date the application is submitted to the commission;
  - 2. Mailing a written notice to each customer no later than the date the application is submitted to the commission;
  - 3. Publishing notice once a week for three (3) consecutive weeks in a prominent manner in a newspaper of general circulation in the utility's service area, the first publication to be made no later than the date the application is submitted to the commission; or
  - 4. Publishing notice in a trade publication or newsletter delivered to all customers no later than the date the application is submitted to the commission.

...

**(4) Notice Content. Each notice issued in accordance with this section shall contain:**

- (a) The proposed effective date and the date the proposed rates are expected to be filed with the commission;
- (b) The present rates and proposed rates for each customer classification to which the proposed rates will apply;
- (c) The amount of the change requested in both dollar amounts and percentage change for each customer classification to which the proposed rates will apply;
- (d) The amount of the average usage and the effect upon the average bill for each customer classification to which the proposed rates will apply, except for local exchange companies, which shall include the effect upon the average bill for each customer classification for the proposed rate change in basic local service;
- (e) A statement that a person may examine this application at the offices of (utility name) located at (utility address);
- (f) A statement that a person may examine this application at the commission's offices located at 211 Sower Boulevard, Frankfort, Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m., or through the commission's Web site at <http://psc.ky.gov>;

- (g) A statement that comments regarding the application may be submitted to the Public Service Commission through its Web site or by mail to Public Service Commission, Post Office Box 615, Frankfort, Kentucky 40602;
- (h) A statement that the rates contained in this notice are the rates proposed by (utility name) but that the Public Service Commission may order rates to be charged that differ from the proposed rates contained in this notice;
- (i) A statement that a person may submit a timely written request for intervention to the Public Service Commission, Post Office Box 615, Frankfort, Kentucky 40602, establishing the grounds for the request including the status and interest of the party; and
- (j) A statement that if the commission does not receive a written request for intervention within thirty (30) days of initial publication or mailing of the notice, the commission may take final action on the application.

As a final example, in Virginia, the state's public notice rules include the following requirement:

**20 Va. Admin. Code 5-411-80. Proposed rate increases.**

- A. Carriers shall give notice of proposed rate increases to subscribers by (i) billing inserts furnished at least two weeks prior to the increase . . .
- B. The notice shall state the subscribers' existing rates, the proposed rates and the percentage change between the two.

In summary, it is important that the Commission update and modernize its rules to require public utilities to provide more thorough notice when filing for revision of rates or tariff changes so that Commission staff, interested parties, and consumers are well-informed and best prepared to participate in the process of establishing just and reasonable rates. The three states referenced above are simply a sampling to illustrate that more modern and thorough methods of public notice are available to public utilities. When better informed of the regulatory process, consumers will be able to prepare and budget for the possibility of rate increases, will have increased awareness of the Commission's role in overseeing their utility company, and will know how and when to provide comments for the Commission's consideration.

### **III. THE CONSUMER ADVOCATE SUPPORTS THE ADOPTION OF STANDARDIZED MINIMUM FILING REQUIREMENTS.**

While not proposing any language at this time, the Consumer Advocate supports the adoption of rules regarding minimum filing requirements. Such rules are not overly burdensome on regulated companies as they contain information used by public utilities in developing their petitions. Further, because of time constraints within dockets, minimum filing requirements eliminate lag time in analysis between the filing of petitions and the discovery phase.

### **CONCLUSION**

The Consumer Advocate thanks the Commission for this proactive measure and respectfully requests that the Commission consider these *Comments* to discovery rules, notice requirements, and minimum filing requirements when drafting the noticed rule revisions. The Consumer Advocate further respectfully requests the opportunity to address both its *Comments* and proposed rules as well as items discussed in other interested parties' written comments at the February 25 Workshop.

RESPECTFULLY SUBMITTED,

**HERBERT H. SLATERY III**  
Attorney General and Reporter  
State of Tennessee



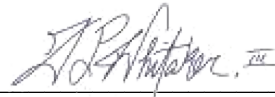
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## **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail or electronic mail on February 23, 2021.

Kelly Grams, General Counsel  
Tennessee Public Utility Commission  
Legal Division  
502 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, TN 37243

A handwritten signature in black ink, appearing to read "D. P. Whitaker III", is positioned above a horizontal line.

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**DANIEL P. WHITAKER III**  
Assistant Attorney General

# EXHIBIT A

**RULES  
OF  
TENNESSEE PUBLIC UTILITY COMMISSION**

**CHAPTER 1220-01-02  
PRACTICE AND PROCEDURE - CONTESTED CASES**

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**1220-01-02-.01 DEFINITIONS.**

- (1) Terms used in this chapter will have the meanings given them in the Uniform Administrative Procedures Act, in the provisions governing the Commission as codified in Title 65 Tennessee Code Annotated and in Rule 1220-01-01-.01 of these rules.
- (2) In addition, for the purposes of this chapter, the following terms will have the following meanings:
  - (a) "Appearance" means any act during the course of a contested case by which a person, either in person or by counsel, recognizes and submits to the jurisdiction of the Commission for all purposes except where it is expressly stated to be limited to a particular purpose, such as challenging the jurisdiction of the Commission.
  - (b) "Party" means any person having a right, under the provisions of the laws applicable to the Commission, to appear and be heard in a contested case and includes:
    1. Persons who initiate a contested case by the filing of an initial petition;
    2. Persons against whom relief is sought or against whom action by the Commission is directed; and
    3. Persons who are given leave by the Commission to intervene in a contested case in accordance with applicable law and these rules.
  - (c) "Initial Petition" means any filing with the Commission by which a person seeks to initiate action by the Commission and which requires a contested case hearing however denominated, including applications and complaints.
  - (d) "Petitioner" means a person filing or joining with others in filing an initial petition.
  - (e) "Respondent" means a person against whom relief is sought, or against whom action by the Commission is directed.

(Rule 1220-01-02-.01, continued)

**Authority:** T.C.A. § 65-2-102. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; “Tennessee Regulatory Authority” references were changed to “Tennessee Public Utility Commission,” “Authority” references were changed to “Commission,” “Authority Director” references were changed to “Commissioner,” and “Chief” references were changed to “Director.”

#### 1220-01-02-.02 COMMENCEMENT OF CONTESTED CASES.

- (1) The Commission may commence a contested case at any time with respect to any matter within its jurisdiction.
- (2) The Commission may commence a contested case upon the initial petition of any person, unless:
  - (a) The Commission lacks jurisdiction of the subject matter;
  - (b) As a matter of law, no hearing is required for the disposition of the matter;
  - (c) The relief which the petition seeks is on its face barred as a matter of law;
  - (d) The initial petition was not submitted in a form substantially complying with any applicable provisions of law; or
  - (e) The initial petition was not accompanied by the appropriate fees.
- (3) If an initial petition does not expressly request the commencement of a contested case, an initial petition shall be deemed to include such a request to the Commission to conduct an appropriate contested case, provided the proceeding is warranted by law and meets the statutory criteria.
- (4) A tariff filing does not constitute a contested case; however, any interested person may object to the tariff filing by filing a complaint. Any such complaint shall state the nature of the interest, the grounds for any such objection and the relief sought. A copy of the complaint shall be served on the company filing the tariff. The company filing the tariff shall have the right to respond to such complaint. It shall be within the discretion of the Commission to convene a contested case. A complaint opposing the tariff shall be filed no later than seven (7) days prior to the Commission Conference immediately preceding the proposed effective date of the tariff.
- (5) If the Commission determines, on its own motion, not to convene a contested case in response to a complaint or initial petition, the Commission shall enter an order dismissing the complaint or petition and state the basis of the Commission’s action.

**Authority:** T.C.A. §§ 4-5-102 and 65-2-102. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; “Tennessee Regulatory Authority” references were changed to “Tennessee Public Utility Commission,” “Authority” references were changed to “Commission,” “Authority Director” references were changed to “Commissioner,” and “Chief” references were changed to “Director.”

#### 1220-01-02-.03 DEFENSES - ANSWERS - MOTIONS TO DISMISS.

- (1) A respondent shall serve on the petitioner and file with the Commission a responsive pleading within thirty (30) days after the service of the complaint or initial petition, except where otherwise provided by statute, by these rules or by order of the Commission.
- (Rule 1220-01-02-.03, continued)
- (2) Every defense, in law or fact, to an order or notice commencing a contested case or to an initial petition, shall be asserted in an answer, except that the following defenses may, at the option of the respondent, be made by motion in writing:
- (a) Lack of jurisdiction over the subject matter;
  - (b) Lack of jurisdiction over the person;
  - (c) Insufficiency of notice;
  - (d) Insufficiency of service of the order, notice or petition;
  - (e) Failure to state a claim upon which relief can be granted; or
  - (f) Failure to join an indispensable party.
- (3) A motion raising any of the defenses in (2) may be made prior to filing an answer, or may be combined with the answer. Such motions shall be disposed of prior to a hearing on the merits.
- (4) If the initial petition is so vague or ambiguous that the respondent cannot reasonably be required to frame a response, the respondent may move for a more definite statement before filing an answer. Such a motion shall point out the defects complained of and the details desired. If the motion is granted, a more definite statement shall be furnished by a date certain fixed in the order granting the motion.
- (5) Upon motion made by any party within ten (10) days after the service of a petition or answer upon that party, or upon its own initiative, the Commission or Hearing Officer may order stricken from any petition, answer or motion to dismiss, any insufficient defense or any irrelevant, immaterial, impertinent or scandalous matter.
- (6) A respondent waives all defenses listed in (2) which are not presented either by motion, answer, or any amendment thereto, except that lack of jurisdiction over the subject matter may be raised at any time. The defenses enumerated in subparagraphs (2)(b), (c) and (d) shall not be raised by amendment.

**Authority:** T.C.A. §§ 65-2-102, 65-4-101, and 65-4-104. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."

#### **1220-01-02-.04 REPRESENTATION BY COUNSEL.**

- (1) Any party to a contested case may be advised and represented, at the party's own expense, by a licensed attorney or attorneys.
- (2) Any party to a contested case may represent himself or herself. In the case of a corporation or other artificial person recognized by law, the party may participate through a duly authorized

representative, such as an officer, director or appropriate employee, whether or not that person is a licensed attorney.

- (3) The Commission shall notify all parties in a contested case of their right to be represented by counsel. An appearance by a party without counsel may be deemed a waiver of the right to counsel.

(Rule 1220-01-02-.04, continued)

- (4) Entry of an appearance by counsel shall be made by:
  - (a) The signing of any filing;
  - (b) The filing of a notice of appearance; or
  - (c) Appearance as counsel at an Commission Conference, pre-hearing conference or a hearing.
- (5) After appearance of counsel has been made, all orders, notices and filings shall be served only upon such counsel unless otherwise requested.
- (6) Counsel wishing to withdraw shall give written notice to the Commission. Permission to withdraw shall not be unreasonably withheld.
- (7) Out of state counsel shall comply with T.C.A. § 23-3-103(a) and Tennessee Supreme Court Rule 19, except the affidavit referred to in the latter rule shall be filed with the Chair of the Commission.

**Authority:** T.C.A. §§ 4-5-305 and 65-2-102. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Editorial changes made by the Secretary of State pursuant to Public Chapter 826 of 2002 by replacing "Executive Secretary" with "Chair of the Authority"; effective March 28, 2003. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."

#### **1220-01-02-.05 DECLARATORY ORDERS.**

- (1) Pursuant to T.C.A. §§ 4-5-223 and 65-2-104, any affected person may petition the Commission for a declaratory order as to the validity or applicability of a statute, rule or order within the primary jurisdiction of the Commission.
- (2) The Commission does not have jurisdiction to determine the constitutionality of a statute on its face, and any petition seeking such a declaration shall be denied. The Commission may grant petitions to determine questions as to the constitutional application of a statute to specific circumstances, or as to the constitutionality of a rule promulgated, or order issued, by the Commission.
- (3) Petitions for declaratory orders shall be filed in the same form and manner as other petitions, as specified in these rules. Any such petition shall state the factual circumstances warranting a declaration by the Commission; the specific statute, rule or order as to which a declaration is sought; how the application of that statute, rule or order, affects or threatens to affect the petitioner; and a statement of the declaration requested.

- (4) The Commission may allow persons other than the petitioner to file statements as to whether the Commission should commence a contested case, or refuse to issue a declaratory order, as provided in T.C.A. § 4-5-223. Any such statements shall be served on all parties.

**Authority:** T.C.A. §§ 4-5-223, 65-2-102, and 65-2-104. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; “Tennessee Regulatory Authority” references were changed to “Tennessee Public Utility Commission,” “Authority” references were changed to “Commission,” “Authority Director” references were changed to “Commissioner,” and “Chief” references were changed to “Director.”

**1220-01-02-.06 PRELIMINARY MOTIONS.**

- (1) Any request for an action or ruling prior to a hearing on the merits in a contested case shall be made in writing, in the same form as other filings. The request shall state the grounds therefor, set forth the relief or order sought, and may be accompanied by a brief as to any issues of law, by affidavits, requests for official notice or other appropriate proof as to any issue of fact.
- (2) Any party opposing a motion shall file and serve a response within seven (7) days after service of the motion. The Commission or Hearing Officer may shorten or extend the time for responding to any motion.
- (3) No reply to a response shall be filed except upon leave given or upon the order of the Commission or Hearing Officer.
- (4) Any party may, in a motion or response, request oral argument or the presentation of oral testimony or the Commission or Hearing Officer may order oral argument or the presentation of oral testimony. If such a request is granted or such an order entered, the Commission or Hearing Officer shall set the date and time therefor and may order that the argument be heard by telephone conference call.
- (5) Preliminary motions, responses, matters submitted in support thereof, and any orders with respect thereto shall be filed with the Chair of the Commission and shall be served on all parties.
- (6) Any party who wishes to seek interlocutory review by the Commission of a Hearing Officer decision on a preliminary motion shall make application by motion to the Hearing Officer. Permission for interlocutory review shall not be unreasonably withheld.
- (7) Any order dismissing a case or otherwise substantially disposing of the merits of the case is not an interlocutory order and any such order issued by a Hearing Officer shall be considered as an initial order subject to review by the Commission as specified in § 4-5-315.
- (8) Nothing in this rule shall affect the right to seek interlocutory judicial review pursuant T.C.A. § 4-5-322.

**Authority:** T.C.A. §§ 4-5-308 and 65-2-102. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Editorial changes made by the Secretary of State pursuant to Public Chapter 826 of 2002 by replacing “Executive Secretary” with “Chair of the Authority”; effective March 28, 2003. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; “Tennessee Regulatory Authority” references were changed to “Tennessee Public Utility Commission,” “Authority” references were changed to “Commission,” “Authority Director” references were changed to “Commissioner,” and “Chief” references were changed to “Director.”

**1220-01-02-.07 CONTINUANCES AND OTHER RESCHEDULING.**

- (1) Any party desiring a continuance or other resetting of any hearing or pre-hearing conference shall file with the Chair of the Commission and serve on all parties a motion setting forth the grounds for the relief sought. Before filing such a motion, the movant shall attempt to contact the parties to the proceeding and shall state in the motion the position of each party.
- (2) Motions to continue or reschedule a hearing or pre-hearing conference in a case which has been referred to a Hearing Officer shall be addressed to the Hearing Officer. Motions to continue or reset any other hearing or pre-hearing conference shall be addressed to the Commission.

(Rule 1220-01-02-.07, continued)

- (3) Any party opposing the continuance or rescheduling may file a response setting forth the basis for such opposition, but the motion may be decided without waiting for responses.
- (4) In determining whether to grant such a motion, the Hearing Officer or the Commission may consider the relative convenience of the parties, the Commission's calendar for hearings and the necessity for the expeditious disposition of the case.

**Authority:** T.C.A. §§ 4-5-308 and 65-2-10. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Editorial changes made by the Secretary of State pursuant to Public Chapter 826 of 2002 by replacing "Executive Secretary" with "Chair of the Authority"; effective March 28, 2003. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."

#### **1220-01-02-.08 INTERVENTION.**

- (1) Petitions for intervention shall be granted in accordance with T.C.A. § 4-5-310 and T.C.A. § 65-2-107.
- (2) A petition for intervention shall set forth with particularity those facts that demonstrate that the petitioner's legal rights, duties, privileges, immunities or other legal interests may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of law. Intervention may be denied or delayed for failure to provide such specific facts.
- (3) A petition for intervention shall be filed at least seven (7) days prior to the date of the contested case hearing.

**Authority:** T.C.A. §§ 4-5-310, 65-2-102, and 65-2-107. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."

#### **1220-01-02-.09 COMPLAINTS**

- (1) A formal complaint filed against a public utility regulated by the Commission shall:
  - (a) Be in writing and signed by the complainant, or by a duly authorized representative or attorney of the complainant;

- (b) Contain the name and address of the complainant and the name and address of the defendant or respondent;
- (c) Set forth with specificity the factual basis and legal grounds upon which the complaint is based;
- (d) Enumerate each statute allegedly violated by the defendant and state each fact demonstrating a violation of the statute so that the defendant can be duly apprised of each statutory violation charged; and
- (e) Enumerate any Commission rule or regulation relied upon for a claim and set forth the manner of each alleged violation of that Commission rule or regulation.

(Rule 1220-01-02-.09, continued)

- (2) For good cause shown, the Commission may waive the provisions of this section in order to prevent manifest injustice or hardship to the complaining party.

**Authority:** T.C.A. §§ 65-2-102 and 65-2-103. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."

#### 1220-01-02-.10 NOTICE TO ATTORNEY GENERAL.

When the validity of a statute of this State or an administrative rule or regulation of this State is drawn into question in any case, the Commission shall give notice to the Office of the Attorney General of Tennessee, specifying the pertinent statute, rule or regulation.

**Authority:** T.C.A. § 65-2-102. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."

#### 1220-01-02-.11 DISCOVERY.

- (1) Any party to a contested case may petition for discovery. In any case where discovery is sought, no discovery shall be undertaken until a discovery schedule is set in accordance with these rules. Parties are encouraged where practicable to attempt to achieve any necessary discovery informally, in order to avoid undue expense and delay in the resolution of the matter at hand. When such attempts have failed or where the complexity of the case is such that informal discovery is not practicable, discovery shall be sought and effectuated in accordance with the Tennessee Rules of Civil Procedure.
- (2) Any party may at any time prior to the hearing of a case on its merits move for the setting of a discovery schedule, either in a pre-hearing conference or by order of the Commission or a Hearing Officer. Any such motion may be denied if it appears the movant has unreasonably delayed in seeking discovery and if discovery would unreasonably delay disposition of the case on its merits.
- (3) Each petition for discovery shall state with reasonable specificity the issues to which discovery may be directed and the manner in which discovery is proposed to be accomplished.

- (4) Stipulations extending the time for responding to discovery shall not be effective without the approval of the Commission or Hearing Officer. Any party unable to respond to discovery within the time provided and who cannot obtain the agreement of the parties for an agreed order extending the time for responding may move, in writing, for an extension of the time for responding.
- ~~(5) (a) No party shall serve on any other party more than forty (40) discovery requests including sub-parts without first having obtained leave of the Commission or a Hearing Officer. Any motion seeking permission to serve more than forty (40) discovery requests shall set forth the additional requests. The motion shall be accompanied by a memorandum establishing good cause for the service of additional interrogatories or requests for production. If a party is served with more than forty (40) discovery requests without an order authorizing the same, such party need only respond to the first forty (40) requests.~~
- (5) (a) Parties to proceedings are encouraged to exchange information informally. Parties will also be permitted to serve formal discovery requests as deemed reasonable and necessary by the hearing officer. While there is no limit within these rules to the number of discovery requests that may be issued, discovery requests must be reasonable and pertain to issues relevant to the proceeding. Upon motion and a showing of good cause, a party from whom discovery is sought may seek to limit the number of discovery requests it is required to provide.

(Rule 1220-01-02-.11, continued)

- (b) All responses to interrogatories shall be signed under oath.
- ~~(6)~~(5) The party responding to any form of discovery shall respond or object to each request, serve a copy containing the original signature upon the requesting party, serve copies thereof on all other parties and upon request of the Commission or a Hearing Officer, file a copy with the Commission.
- ~~(7)~~(6) All objections to discovery requests shall be presented in the manner set forth in the Tennessee Rules of Civil Procedure.
- ~~(8)~~(7) If counsel for any party advises the Commission or Hearing Officer in writing that an opposing counsel has refused or delayed a discussion of any discovery problems covered in this subsection, the Commission or Hearing Officer may take such action as appropriate to avoid delay.
- ~~(9)~~(8) Motions to compel discovery shall be accompanied by a copy of the discovery request that shows the question and objection or response and shall state the reasons supporting the motion with reasonable specificity.
- ~~(10)~~(9) Motions for protective orders filed pursuant to Tennessee Rules of Civil Procedure 26.03, motions to quash subpoenas for discovery, or any motion asking that discovery be postponed or restricted shall:
- (a) Be accompanied by a copy of the discovery request or subpoena;
  - (b) State with reasonable specificity the factual and legal grounds for the motion; and
  - (c) Be accompanied by an affidavit or other evidence showing the need for the order.

~~(11)~~(10) Whenever a request for discovery is made, the party seeking discovery shall serve each party with a copy of the request. Such service shall be made even though the discovery sought may be directed to fewer than all parties.

~~(12)~~(11) The Commission may adopt, and from time to time modify, a model protective order, the use of which shall not be mandatory, but which shall provide guidance as to appropriate provisions of such orders.

**Authority:** T.C.A. §§ 4-5-311 and 65-2-102. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."

#### 1220-01-02-.12 PRE-HEARING CONFERENCES.

(1) In any contested case, the Commission or the Hearing Officer may, on his or her own motion or on the motion of any party, enter an order, pursuant to T.C.A. § 4-5-306, directing counsel for the parties and any unrepresented parties to appear for a conference or conferences before the hearing on the merits to consider:

- (a) The simplification of issues for the hearing on the merits;
- (b) The necessity or desirability of any amendments to the filings;
- (c) The possibility of obtaining admissions of fact and of documents which may avoid unnecessary proof;

(Rule 1220-01-02-.12, continued)

- (d) The limitation of the number of expert witnesses;
- (e) The disposition of any pending motions;
- (f) The adoption or amendment of a discovery schedule in accordance with these rules, including the adoption of a statement of the issues for the purpose of discovery;
- (g) The steps which may be taken to expedite the disposition of the case or to facilitate settlement of the case, or any aspect thereof;
- (h) The adoption of a schedule for the filing of briefs and any pre-filed testimony; and
- (i) Such other matters as may facilitate the just, efficient and economical disposition of the case including alternative dispute resolution.

(2) At least one of the counsel or other representative for each party participating in a prehearing conference shall have authority to enter into stipulations, make admissions, or enter into agreements with respect to any matters which the parties may reasonably anticipate will be considered.

(3) The Hearing Officer shall enter an order which recites the actions taken at the pre-hearing conference and embodies all decisions made, and such order shall control the subsequent course of the case, unless modified by order of the Hearing Officer or the Commission.

- (4) Upon reasonable notice to all parties, the Hearing Officer may convene a hearing or convert a pre-hearing conference to a hearing, to be conducted by the Hearing Officer, to consider arguments and any relevant evidence on any question of law. The Hearing Officer may enter an initial order, as provided in the Uniform Administrative Procedures Act, on any such question of law.
- (5) In the discretion of the Hearing Officer, all or part of the pre-hearing conference may be conducted by electronic means, provided each participant in the conference has an opportunity to participate in, hear, and if technically and economically feasible, see the entire proceeding while it is taking place.
- (6) If a pre-hearing conference is not held, the Hearing Officer for the hearing may issue a prehearing order based on the filings to regulate the conduct of the proceedings.

**Authority:** T.C.A. §§ 4-5-306, 65-2-102 and 65-2-111. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; “Tennessee Regulatory Authority” references were changed to “Tennessee Public Utility Commission,” “Authority” references were changed to “Commission,” “Authority Director” references were changed to “Commissioner,” and “Chief” references were changed to “Director.”

#### 1220-01-02-.13 SUBPOENAS AND SUBPOENAS DUCES TECUM.

- (1) At the request of any party, the Chair of the Commission or the Hearing Officer shall issue signed subpoenas, including subpoenas duces tecum, in blank in accordance with the Tennessee Rules of Civil Procedure, except that service in contested cases may be by certified, return receipt mail, in addition to the means of service provided in the Tennessee Rules of Civil Procedure. Parties shall complete and serve their own subpoenas. This section may not be used to circumvent the provisions of Rule 1220-01-02-.11.

**Authority:** T.C.A. §§ 4-5-311, 65-1-209, 65-2-102, and 65-3-112. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Editorial changes made by the Secretary of State (Rule 1220-01-02-.13, continued) pursuant to Public Chapter 826 of 2002 by replacing “Executive Secretary” with “Chair of the Authority”; effective March 28, 2003. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; “Tennessee Regulatory Authority” references were changed to “Tennessee Public Utility Commission,” “Authority” references were changed to “Commission,” “Authority Director” references were changed to “Commissioner,” and “Chief” references were changed to “Director.”

#### 1220-01-02-.14 NOTICE OF HEARING.

- (1) Except as may be otherwise provided by statute or by these rules, the Chair of the Commission shall give all parties reasonable notice of any pre-hearing conference or any hearing to be held for the disposition of any preliminary motion.
- (2) The Chair of the Commission shall give all parties at least ten (10) days notice of any hearing on the merits.

**Authority:** T.C.A. §§ 4-5-307, 65-2-102, and 65-2-108. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Editorial changes made by the Secretary of State pursuant to Public Chapter 826 of 2002 by replacing “Executive Secretary” with “Chair of the Authority”; effective March 28, 2003. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; “Tennessee Regulatory Authority” references were changed to “Tennessee Public Utility

*Commission,” “Authority” references were changed to “Commission,” “Authority Director” references were changed to “Commissioner,” and “Chief” references were changed to “Director.”*

**1220-01-02-.15 RESERVED.**

**1220-01-02-.16 EVIDENCE - TESTIMONY AND BURDEN OF PROOF.**

- (1) The admissibility of evidence is governed by T.C.A. §§ 65-2-109 and 4-5-313.
- (2) The burden of proof shall be on the party asserting the affirmative of an issue, provided that when the Commission has issued a show cause order pursuant to T.C.A. § 65-2-106, the burden of proof shall be on the party thus directed to show cause.
- (3) In lieu of the oral examination of a witness or when required by the Commission or by these rules, the direct or redirect examination of such witness may be presented in written, question-and-answer form. Pre-filed testimony shall be filed no later than ten (10) days prior to the hearing unless otherwise provided by the Commission or the Hearing Officer. Presentation of pre-filed testimony may be required by the Commission in accordance with this rule, if it is deemed by the Commission that doing so would be in the public interest and would be conducive to a fair and expeditious disposition of the proceeding. Any party may object to the use of pre-filed testimony by a witness, and the objecting party shall have the right to be heard by the Commission or the Hearing Officer at a hearing on the objection.
- (4) All pre-filed testimony shall be filed in electronic or written form consistent with these rules. The lines on each page shall be double-spaced and numbered consecutively down the left side of the page, and the left-hand margin of each page shall not be less than 1 1/4 inches wide. At the hearing, after any such pre-filed testimony has been properly identified and authenticated under oath or affirmation by the witness presenting the same, it may upon motion be incorporated into the record in the same way as if the questions had been asked of the witness and the answers had been given orally by the witness. Such pre-filed testimony shall be treated as if given orally and the witness presenting such pre-filed testimony shall be subject to cross-examination during the hearing on the merits.
- (5) Any party shall have the right to cross-examine witnesses who testify and shall have the right to submit rebuttal testimony, subject to the standards of admissibility and such limitations as (Rule 1220-01-02-.16, continued) the Hearing Officer or the Chair, whichever is presiding at the hearing, may reasonably require.
- (6) In the discretion of the Commission or the Hearing Officer or on motion of any party witnesses may be excluded from the hearing room prior to their testimony.

**Authority:** T.C.A. §§ 4-5-313, 65-2-102, and 65-2-109. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; “Tennessee Regulatory Authority” references were changed to “Tennessee Public Utility Commission,” “Authority” references were changed to “Commission,” “Authority Director” references were changed to “Commissioner,” and “Chief” references were changed to “Director.”

**1220-01-02-.17 DEFAULTS - UNOPPOSED CASES.**

- (1) Failure of a party to attend or participate in a pre-hearing conference, hearing or other stage of a contested case proceeding, after due notice thereof, shall be cause for finding such party in default, pursuant to T.C.A. § 4-5-309. Failure to comply with an order of the Commission or a

Hearing Officer may be deemed a failure to participate in a contested case and, therefore, be cause for finding a party in default.

- (2) (a) Upon entry into the record of the default of the petitioner at a contested case proceeding, the petition shall be dismissed.
- (b) Upon entry into the record of the default of a respondent at a contested case proceeding, the matter shall be tried as unopposed relative to such respondent.
- (3) Where the case is unopposed, the petitioner has the burden of making out a prima facie case, which may be done on the basis of written filings. In order to carry out statutory policies, however, the Commission or Hearing Officer may require further proof.

**Authority:** T.C.A. §§ 4-5-309, 4-5-317, 65-2-102, and 65-2-108. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; “Tennessee Regulatory Authority” references were changed to “Tennessee Public Utility Commission,” “Authority” references were changed to “Commission,” “Authority Director” references were changed to “Commissioner,” and “Chief” references were changed to “Director.”

#### 1220-01-02-.18 INITIAL AND FINAL ORDERS.

- (1) The review and effectiveness of initial and final orders are governed by the Uniform Administrative Procedures Act.
- (2) The Commission may review all initial orders.
- (3) Any final order shall be signed by the Commissioners making the decision and attested by the Executive Director. If any Commissioner was not present at the proceeding where the decision was made, abstained from voting, or voted in opposition to the decision, that fact shall be reflected in the final order.
- (4) Any Commissioner may file a statement explaining his or her position. The statement may be attached to the final order, or filed separately in the record.
- (5) When requested by the Commission parties of record may submit proposed final orders for approval by the Commission. Any such final order shall conform to the statutory requirements for final orders.

(Rule 1220-01-02-.18, continued)

**Authority:** T.C.A. §§ 4-5-314, 4-5-318, 65-2-102, and 65-2-112. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Editorial changes made by the Secretary of State pursuant to Public Chapter 826 of 2002 by replacing “Executive Secretary” with “Chair of the Authority”; effective March 28, 2003. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; “Tennessee Regulatory Authority” references were changed to “Tennessee Public Utility Commission,” “Authority” references were changed to “Commission,” “Authority Director” references were changed to “Commissioner,” “Chair of the Commission” references were changed to “Executive Director,” and “Chief” references were changed to “Director.”

#### 1220-01-02-.19 STAYS.

- (1) Any petition for stay, filed pursuant to T.C.A. § 4-5-316, shall state the grounds therefor with reasonable particularity; may be supported by a brief, affidavit or other supporting evidentiary materials; and shall be served on all parties of record.
- (2) Any party opposing a stay may file a brief in opposition within ten (10) days after the service of the petition for stay.
- (3) In deciding whether to grant a stay, the Commission shall consider and give appropriate weight to:
  - (a) The likelihood of the success of the petitioner on appeal;
  - (b) The hardship or injury which may be imposed on the petitioner if a stay is not granted;
  - (c) The hardship or injury which may be imposed on others if a stay is granted; and
  - (d) The public interest.

**Authority:** T.C.A. §§ 4-5-316 and 65-2-102. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; “Tennessee Regulatory Authority” references were changed to “Tennessee Public Utility Commission,” “Authority” references were changed to “Commission,” “Authority Director” references were changed to “Commissioner,” and “Chief” references were changed to “Director.”

#### **1220-01-02-.20 PETITIONS FOR RECONSIDERATION.**

- (1) Any petition for reconsideration shall be filed within fifteen (15) days after the date of the entry of an order. The petition shall be served on all parties and include a statement of the grounds upon which relief is requested with reasonable specificity. If the petitioners seek to present new evidence, the petition shall contain a statement of the cause for the failure to introduce the proposed new evidence in the original proceeding, a detailed description of any such new evidence proposed to be introduced, including copies of documents sought to be introduced, identities of proposed witnesses, and summaries of any testimony sought to be presented. However, documents that are unavailable to the party seeking reconsideration at the time of filing the petition may be described in as much detail as is possible and may be provided at a later time, should reconsideration be granted, but not later than three (3) working days prior to any reconsideration hearing.
  - (2) The Commission may grant or deny petitions for reconsideration of final orders under T.C.A. § 4-5-317, to the following extent:
    - (a) Any such petition shall be granted within the twenty (20) day period fixed by T.C.A. § 45-317(c), or it shall be deemed denied;
    - (b) If the petition is granted, the matter shall be heard as soon as practicable;
- (Rule 1220-01-02-.20, continued)
- (c) The party seeking reconsideration may be allowed to present new evidence only if the party shows that good cause existed for the failure to introduce the new evidence at the original hearing, and the opposing party shall be allowed to present rebuttal proof if the party seeking reconsideration is allowed to present new evidence; and

- (d) Any new evidence allowed to be introduced by the party seeking reconsideration shall be limited to that described in the petition for reconsideration.
- (3) The filing of a petition for reconsideration shall not toll the period for review of a final order unless the petition for reconsideration is granted.

**Authority:** T.C.A. §§ 4-5-317 and 65-2-102. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; “Tennessee Regulatory Authority” references were changed to “Tennessee Public Utility Commission,” “Authority” references were changed to “Commission,” “Authority Director” references were changed to “Commissioner,” and “Chief” references were changed to “Director.”

#### 1220-01-02-.21 STAFF PARTICIPATION AS A PARTY.

- (1) In any show cause proceeding, designated staff members, represented by the general counsel or other counsel employed by the Commission, shall participate as a party.
- (2) In any contested case commenced by the Commission, designated staff members, represented by the general counsel or other counsel employed by the Commission, may participate as a party.
- (3) In any other contested case proceeding, designated staff members, represented by the general counsel or other counsel employed by the Commission, may participate as a party.
- (4) Staff members who participate as a party shall be bound to follow the same requirements as any other party.
- (5) As soon as practicable after the commencement of any proceeding in which the staff will participate as a party, the Chair of the Commission shall identify those staff members to all interested parties and staff so as to prevent ex parte communications.

**Authority:** T.C.A. §§ 4-5-303, 4-5-304, 65-2-102, 65-2-106, and 65-2-107. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Editorial changes made by the Secretary of State pursuant to Public Chapter 826 of 2002 by replacing “Executive Secretary” with “Chair of the Authority”; effective March 28, 2003. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; “Tennessee Regulatory Authority” references were changed to “Tennessee Public Utility Commission,” “Authority” references were changed to “Commission,” “Authority Director” references were changed to “Commissioner,” and “Chief” references were changed to “Director.”

#### 1220-01-02-.22 GENERAL PROCEDURAL POWERS.

In any contested case the Commission or the Hearing Officer:

- (1) May determine that there is no genuine issue as to any material fact. In reaching such determination, the Commission or Hearing Officer may, in its discretion, hear and determine all or any part of a case, without hearing oral testimony;
  - (2) May, on its own motion or the motion of any party, allow amendments, consolidate cases, join parties, sever aspects of the case for separate hearings, permit additional claims or contentions to be asserted, bifurcate or otherwise order the course of proceedings in order to
- (Rule 1220-01-02-.22, continued) further the just, efficient and economical disposition of cases consistent with the statutory policies governing the Commission; and

- (3) Shall afford all parties an opportunity to be heard after reasonable notice before exercising these general procedural powers.

**Authority:** T.C.A. § 65-2-102. **Administrative History:** Original rule filed June 30, 2000; effective September 13, 2000. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; “Tennessee Regulatory Authority” references were changed to “Tennessee Public Utility Commission,” “Authority” references were changed to “Commission,” “Authority Director” references were changed to “Commissioner,” and “Chief” references were changed to “Director.”

**RULES  
OF  
TENNESSEE PUBLIC UTILITY COMMISSION**

**CHAPTER 1220-04-01  
GENERAL PUBLIC UTILITIES RULES**

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**1220-04-01-.01 CAPITAL ADDITIONS BUDGETS OF UTILITIES.**

~~(1)~~ All public utilities operating in the State of Tennessee shall submit one (1) copy of the following information on an annual basis, to be filed no later than ninety (90) days after the beginning of the current fiscal year with the Director, Utilities Division, the Attorney General, or as otherwise agreed upon.

- (a) Projected expenditures on capital construction projects both routine and specific for the current year.
- (b) For the current year a brief description of the nature, location and necessity of individual specific projects. Individual specific projects are those projects which for public utilities having more than 300,000 customers in their Tennessee jurisdiction any addition to plant where the cost of the project exceeds \$200,000. For public utilities having between 30,000 and 300,000 customers in their Tennessee jurisdiction, any addition to plant where the cost of the project exceeds \$100,000. For public utilities having less than 30,000 customers in their Tennessee jurisdiction, any addition to plant where the cost of the project exceeds \$50,000.00.
- (c) New projects over the above thresholds that arise during the reporting year as well as reported projects that are later deferred or canceled should be reported at the time of such decisions if they significantly impact customer service. A summary of all changes, together with reasons for change will be included as a supplement to the following year's annual report.

~~(2)~~(1) Those utilities that, pursuant to Rule 1220-04-02-.55, prepare Tennessee specific capital addition budgets for the first and second following years shall also file similar information for these years with the filing in (a) above.

~~(3)~~(2) An annual conference, where appropriate, will be scheduled for each utility as required by the Commission's Staff for clarification of the submitted capital additions budgets. The review of such information at an annual conference will not necessarily constitute approval of a utility proposed capital addition.

**Authority:** T.C.A. § 65-2-102. **Administrative History:** Original rule certified May 9, 1974. Amendment filed December 3, 1986; effective March 31, 1987. Repeal filed August 7, 1992; effective November 29, 1992. New rule filed June 4, 1993; effective September 28, 1993. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; "Commission" and references to the "Commission" were

changed to "Authority" and references to the "Authority"; effective March 28, 2003. Amendment filed February 11, 2015; effective May 12, 2015. Administrative changes made to this (Rule 1220-04-01-.01, continued)

chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."

## 1220-04-01-.02 TARIFF SPECIFICATIONS.

### ~~(1) Form and Style of Tariffs.~~

~~(a) All tariffs must be in book, sheet or pamphlet form with loose leaves so that changes can be made by reprinting and inserting a single leaf.~~

~~(b) The initial tariff filed by each public utility shall be designated as TRA No. 1 and thereafter as other tariffs are filed they shall be designated with the next number in consecutive numerical order. Revisions and additions shall be inserted in the most appropriate location and denoted by the previous sheet numbers plus a letter, i.e., 3A, 3B, etc., or 3.1, 3.2, etc. Revisions to tariff sheets shall be denoted by 1st Revised Sheet No.3, 2nd Revised Sheet, etc.~~

~~(c)(a) The title page should be uniform. Rates, rules and regulations shall be written only on one side of a sheet. If a single sheet is insufficient, two or more pages should be used.~~

~~(d)(b)~~ Separate tariffs shall be filed for electric, telephone, telegraph, gas, water, wastewater heat or for any other services rendered.

### ~~(2) Size of Tariffs and Copies Required.~~

~~(a) Tariffs and supplements thereto must be typewritten on paper 8½ x 11 inches in size.~~

~~(b) Three copies of each tariff, rate schedule, or revision or supplement shall be filed with the Commission. All three shall bear the name and title of the issuing officer.~~

**Authority:** T.C.A. § 65-2-102. **Administrative History:** Original rule certified May 9, 1974. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; "Commission" and references to the "Commission" were changed to "Authority" and references to the "Authority"; effective March 28, 2003. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."

## 1220-04-01-.03 TARIFF CONTENTS.

(1) Tariffs must explicitly state the rates and charges for each class of service rendered, designating the area or district to which they apply.

(2) Rules and regulations of the utility that in any manner affects the rates charged or to be charged or that define the extent or character of the service to be given shall be included with each tariff.

**Authority:** T.C.A. § 65-2-102. **Administrative History:** Original rule certified May 9, 1974. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority"

*references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."*

#### **1220-04-01-.04 TARIFF CHANGES REQUIRE THIRTY (30) DAYS NOTICE TO THE COMMISSION.**

- (1) Except as hereinafter provided all tariffs, rate schedules or supplements thereto containing any change in rates, tolls, charges or rules and regulations must be filed with the Commission and the Consumer Advocates office at least thirty (30) days before the effective date of such changes, unless upon application and for good cause shown the Commission may waive the thirty (30) day time limit or any portion thereof.

**Authority:** T.C.A. § 65-2-102. **Administrative History:** Original rule certified May 9, 1974. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; "Commission" and references to the "Commission" were changed to "Authority" and references to the "Authority"; effective March 28, 2003. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."

#### **1220-04-01-.05 PETITION FOR REVISION OF RATES AND NOTICE REQUIREMENTS.**

- (1) All public utilities applying for revision of rates shall provide the following public notice in regard to proposed rate changes: notify the Commission, the Attorney General, and all parties of record appearing in the public utility's last rate case at least 60 days in advance of filing the application. Such notice shall have a summary of the public utility's proposed rate changes, including a prediction of the impacts of the proposed rate changes on the average residential and business customers served by the public utility.
- (2) Along with the public utility's initial filing of its petition for revision of rates, the public utility shall also by rate class as well as identifying any proposed increase in miscellaneous charges prepare and submit a proposed customer notice to the Commission for approval by Commission staff. Within 15 days of the public utility's submission, the Commission staff shall either approve of or request revisions to the proposed customer notice. The customer notice shall include:
- (a) A statement written in understandable language that the utility has requested a change in rates, a statement of the amount requested, a comparison of the current and proposed rates, and the general reason for the request;
  - (b) A summary of the section of the Minimum Filing Requirements (MFR) showing a comparison of the present and proposed rates by rate class as well as identifying any proposed increase in miscellaneous charges;
  - (c) A copy of the executive summary filed with the MFRs;
  - (d) A description of the ratemaking process and the time schedule established for the rate case;
  - (e) A statement that a complete copy of the proposed rate changes and the reasons for them are on file with the Tennessee Public Utility Commission and are available on the Commissions' website;-
  - (f) A statement of what the Commission does, including an explanation of its role in establishing just and reasonable rates;

- (g) The docket number assigned to the petition by the Commission;
- (h) A statement that written comments regarding the proposed changes in rates and charges should be addressed to the Tennessee Public Utility Commission, 502 Deaderick Street 4<sup>th</sup> Floor, Nashville, TN 37243 or emailed to the Commission at [contact.tpuc@tn.gov](mailto:contact.tpuc@tn.gov), and that such correspondence should include the docket number; and
- (i) A statement explaining that the public will have an opportunity to make in-person comments (or via electronic means) regarding the proposed changes in rates, including a hyperlink to the Commission's website where further information can be found once it is available regarding the time and location of the hearing.
- ~~(1)–~~
- ~~(a) A utility shall make a summary of the proposed changes and the reasons for them available at each of the utility's business offices.~~
- ~~(b) A utility shall cause a summary of the proposed changes and the reasons for them to be published in a newspaper of general circulation located in the utility's service area.~~
- (3) The public utility must begin sending the notice to customers within 60 days after it has been approved by the Commission staff. Customer notice shall include the following methods of publication:
  - (a) Direct mailing to each customer (bill inserts or electronic bill messages are acceptable);
  - (b) Posted in a public place at the public utility's local customer service office or offices, to the extent the public utility has such offices;
  - (c) Publication of the notice in obvious view on the public utility's website specific to its Tennessee operations (provided the public utility maintains a website), and a hyperlink to the Commission's website where the petition filing is located.
- ~~(2) The summary must include a summarization of every proposed rate change written in clear, simple, and understandable language and the predicted impact of proposed changes on the average residential and business customers served by the utility. The newspaper notice and the notice at the utility's business office shall state that a complete copy of the proposed tariff changes and the reasons for them are on file with the Tennessee Public Utility Commission and are open to public inspection. The public notice should also state the date and place when the application will be heard by the Commission, if known.~~
- ~~(3)~~(4) The petitioner, by a duly authorized officer, or by its attorney, shall file a statement in writing on or before the date of hearing that the above notice has been published and posted, together with the date and location of said posting and publication, as required by this rule.

**Authority:** T.C.A. §§ 65-2-102 and 65-4-104. **Administrative History:** Original rule certified May 9, 1974. Amendment filed November 9, 1984; effective December 9, 1984. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; "Commission" and references to the "Commission" were changed to "Authority" and references to the "Authority"; effective March 28, 2003. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."

#### 1220-04-01-.06 CHANGES IN TARIFF.

- (1) All public utilities, agents, representatives, or bureaus issuing tariffs or schedules of rates and charges affecting Tennessee intrastate business, shall file with the Tennessee Public Utility Commission of the State of Tennessee written notice, in triplicate, containing a brief explanation of the character of and reason for proposed changes in said tariff schedules.
  - (2) Such explanation shall be filed not later than the date said tariff or schedule is filed.
- (Rule 1220-04-01-.06, continued)
- (3) A receipt copy of said explanation shall be evidence of filing such explanation and related tariffs or schedules.
  - (4) All tariffs and supplements affecting Tennessee intrastate business shall be filed with the Tennessee Public Utility Commission at least thirty (30) days before the date upon which they are to become effective, unless upon application and for good cause shown the Commission may waive the thirty (30) days time limit or any portion thereof.
  - (5) The Commission may, on its own motion or on the filing of a sufficient protest by any person or persons affected, order such tariff modified or suspended.

**Authority:** T.C.A. § 65-2-102. **Administrative History:** Original rule certified May 9, 1974. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; “Tennessee Regulatory Authority” references were changed to “Tennessee Public Utility Commission,” “Authority” references were changed to “Commission,” “Authority Director” references were changed to “Commissioner,” and “Chief” references were changed to “Director.”

#### 1220-04-01-.07 SPECIAL CONTRACTS.

- (1) Special contracts between public utilities and certain customers prescribing and providing rates, services and practices not covered by or permitted in the general tariffs, schedules or rules filed by such utilities are subject to supervision, regulation and control by the Commission. A copy of such special agreements shall be filed, subject to review and approval.

**Authority:** T.C.A. § 65-2-102. **Administrative History:** Original rule certified May 9, 1974. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; “Tennessee Regulatory Authority” references were changed to “Tennessee Public Utility Commission,” “Authority” references were changed to “Commission,” “Authority Director” references were changed to “Commissioner,” and “Chief” references were changed to “Director.”

#### 1220-04-01-.08 NAME CHANGES FOR PUBLIC UTILITIES.

- (1) (a) Any public utility (i) changing its registered business name, (ii) adopting an assumed business name, or (iii) discontinuing the use of an assumed business name shall notify the Commission at least thirty (30) days before offering services to Tennessee customers under a new name.
- (b) A public utility certificated in the state of Tennessee pursuant to T.C.A. § 65-4-201 but not presently offering services to Tennessee customers shall notify the Commission of any change referenced above within thirty (30) days of the change.

- (2) A notification of any change referenced in subsection (1)(a) above shall include all of the following:

- (a) For public utilities operating as either a corporation, limited liability company, or limited liability partnership, verification that the public utility has registered the changed or assumed business name with the Office of the Tennessee Secretary of State in compliance with the requirements of T.C.A. §§ 48-14-103, 48-54-103, 48-207-103, or 61-2-103;

(Rule 1220-04-01-.08, continued)

- (b) For public utilities providing telecommunications services in the state of Tennessee, verification that the changed or assumed business name has been recorded in the public utility's surety bond or letter of credit obtained pursuant to T.C.A. § 65-4-125;
- (c) If the public utility is currently serving end user customers in the state of Tennessee, a copy of the proposed notice to be sent to the utility's Tennessee customers for the purpose of informing these customers of the anticipated change in business name, adoption of an assumed business name, or removal of an assumed business name; and
- (d) If the public utility intends to use more than one business name to provide services in the state of Tennessee, a notice specifying which services will be provided to customers under each name.
- (3) At its own discretion, the Commission may waive any of the requirements of subsection (2) of this rule for good cause.

**Authority:** T.C.A. §§ 48-14-103, 48-54-103, 48-207-103, 61-2-103, 63-2-102, 65-2-101, 65-4-104 and 65-4-201. **Administrative History:** Original rule certified May 9, 1974. Amendment by Public Chapter 440; effective July 1, 1985. Amendment filed July 14, 2005; effective September 27, 2005. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."

#### 1220-04-01-.09 PIPELINE SAFETY RULE.

- (1) "The Minimum Federal Safety Standards for the transportation of natural and other gas by pipeline (Title 49, Chapter 1, Part 192) as published in the Federal Register Vol. 35, Number 161 shall be the standard for use by gas transmission and distribution systems within the State of Tennessee."

[With the exception of paragraph (b) of Section 192-455 (Title 49, Chapter 1, Part 192) as published in the Federal Register Volume 36, Number 126, which is deleted.]

- (2) "The present American Standard Code for Pressure Piping, Gas Transmission and Distribution Piping System (ASA - B 31.8), and all supplements and amendments thereto, shall be used to supplement this rule, insofar as the same does not conflict with Part 192." (Cross reference - 1220-04-05-.43 - 1220-04-05-.44).

**Authority:** T.C.A. § 65-2-102. **Administrative History:** Amendment of the Pipeline Safety Rule effective on November 1, 1970, to be the Minimum Federal Safety Standards for the transportation of natural and other gas by pipeline (Title 49, Chapter 1, Part 192) as published in the Federal Register, Volume 35, Number 161. Amendment to delete paragraph (b) of Section 192-455 (Title 49, Chapter 1, Part 192) as published in the Federal Register, Volume 36, Number 126, from its standard for the transmission of natural

*and other gas by pipeline; effective August 1, 1972. Rule certified May 9, 1974. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."*

**1220-04-01-.10 REPORTS-UNIFORM FINANCIAL REPORT FORMS.****(1) Reports**

(Rule 1220-04-01-.10, continued)

All electric, telephone, gas, water, and other public utility companies as set forth in T.C.A. § 65-4-101, and with operating revenues in excess of \$250,000 annually, shall submit financial statements to the Commission monthly, and public utilities with operating revenues of less than \$250,000 annually shall submit quarterly financial statements to the Commission, except as otherwise provided in this rule.

**(2) Type of Public Utilities****(a) Telephone Utility Companies**

1. All companies subject to the jurisdiction of the Commission as set forth in T.C.A. § 65-4-101, which are either a subsidiary of a holding company or have in excess of 6,000 access lines shall submit monthly to this Commission Monthly Report Form TRA-3.01 within sixty (60) days after the end of the month covered by the report. The Monthly Report Form shall be completed by each company to the extent data is available.
2. All companies subject to the jurisdiction of the Commission as set forth in T.C.A. § 65-4-101, which are not a subsidiary of a holding company and have less than 6,000 access lines shall submit quarterly to this Commission Quarterly Report Form TRA-3.02 within sixty (60) days after the end of the quarter covered by the report. The Quarterly Report Form shall be completed by each company to the extent data is available.
3. All companies operating pursuant to price regulation under T.C.A. § 65-5-109 shall submit to the Commission the above report annually, for the twelve months ending December, or for the company's fiscal year, if different, within sixty (60) days after the end of the twelve (12) month period covered by the report.

**(b) Gas Utility Companies**

1. All companies subject to the jurisdiction of this Commission, as set forth in T.C.A. § 65-4-101, which had operating revenues for the preceding year in excess of \$1,500,000 shall submit monthly to this Commission, Monthly Report Form TRA3.03 sixty (60) days after the end of the month covered by the report.
2. All companies subject to the jurisdiction of this Commission, as set forth in T.C.A. § 65-4-101, which had operating revenues for the preceding year of \$1,500,000 or less shall submit quarterly to this Commission, Quarterly Report Form TRA3.04 sixty (60) days after the end of the quarter covered by the report.

**(c) Electric Utility Companies**

1. All companies subject to the jurisdiction of this Commission, as set forth in T.C.A. § 65-4-101, which had operating revenues from operations within Tennessee for the preceding year in excess of \$1,500,000 shall submit monthly to this Commission, Monthly Report Form TRA-3.05 sixty (60) days after the end of the month covered by the report.

(d) Water Utility Companies

1. All companies subject to the jurisdiction of this Commission, as set forth in T.C.A. § 65-4-101, which had operating revenues for the preceding year in excess of \$1,500,000 shall submit monthly to this Commission, Monthly Report Form TRA3.06 sixty (60) days after the end of the month covered by the report.

(Rule 1220-04-01-.10, continued)

2. All companies subject to the jurisdiction of this Commission, as set forth in T.C.A. § 65-4-101, which had operating revenues for the preceding year in excess of \$100,000 but less than \$1,500,000 shall submit to this Commission, Quarterly Report Form TRA-3.07 sixty (60) days after the end of the month covered by the report.

(e) Sewer Utility Companies

1. All companies subject to the jurisdiction of this Commission, as set forth in T.C.A. § 65-4-101, which had operating revenues for the preceding year in excess of \$1,500,000, shall submit monthly to this Commission Monthly Report Form TRA3.18 sixty (60) days after the end of the month covered by the report.
2. All companies subject to the jurisdiction of this Commission, as set forth in T.C.A. § 65-4-101, which had operating revenues for the preceding year in excess of \$100,000 but less than \$1,500,000, shall submit quarterly to this Commission, Quarterly Report Form TRA-3.19, sixty (60) days after the end of the quarter covered by the report.

(3) Uniform Financial Report Forms

The following report forms which are attached to his order as Appendix A shall be used by the utility companies, as designated in paragraph (2) of this rule:

(a) Telephone Utility Companies

Form TRA-3.01

Form TRA-3.02

(b) Gas Utility Companies

Form TRA-3.03

Form TRA-3.04

(c) Electric Utility Companies

Form TRA-3.05

(d) Water Utility Companies

Form TRA-3.06

Form TRA-3.07

(e) Sewer Utility Companies

Form TRA-3.18

Form TRA-3.19

**Authority:** T.C.A. §§ 65-2-102, 65-4-101, 65-4-104, 65-4-401, 65-4-111, and 65-5-109. **Administrative History:** Original rule certified May 9, 1974. Amendment filed February 29, 1988; effective May 29, 1988. Amendment filed August 26, 1988; effective November 29, 1988. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; “Commission” and references to the “Commission” were changed to “Authority” and references to the “Authority”; effective March 28, 2003. Amendment filed September 25, 2003; effective December 9, 2003. Amendment filed February 11, 2015; effective May 12, 2015. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; “Tennessee Regulatory Authority” references were changed to “Tennessee Public Utility Commission,” “Authority” references were changed to “Commission,” “Authority Director” references were changed to “Commissioner,” and “Chief” references were changed to “Director.”

### 1220-04-01-.11 UNIFORM SYSTEM OF ACCOUNTING.

- (1) The following uniform system of accounting will be followed by utilities and other companies making periodic reports to the Commission:
  - (a) For Classes A and B telephone companies - Uniform System of Accounts as adopted and amended by the Federal Communications Commission.
  - (b) For Classes C and D telephone companies - Uniform System of Accounts as adopted and amended by the Federal Communications Commission.
  - ~~(c) For Classes A and B gas companies - Uniform System of Accounts as adopted by the National Association of Regulatory Railroad and Utility Commissioners, as revised June 30, 1972, and any amendments or revisions pertaining thereto.~~
  - ~~(d) For Classes C and D gas companies - Uniform System of Accounts as adopted by the National Association of Regulatory Railroad and Utility Commissioners, as revised June 30, 1972, and any amendments or revisions pertaining thereto.~~
  - ~~(e) For Classes A and B electric companies - Uniform System of Accounts as adopted by the National Association of Regulatory Railroad and Utility Commissioners, as revised June 30, 1972, or any amendments or revisions pertaining thereto.~~
  - ~~(f) For Classes C and D electric companies - Uniform System of Accounts as adopted by the National Association of Regulatory Railroad and Utility Commissioners, as revised June 30, 1972, or any amendments or revisions pertaining thereto.~~
  - (g) For Classes A, B, and C water companies - Uniform System of Accounts as adopted and amended by the National Association of Regulatory Railroad and Utility Commissioners.
  - (h) For Classes A, B, and C sewer companies - Uniform System of Accounts as adopted and amended by the National Association of Railroad and Utilities Commissioners.
- (2) That this rule shall not apply to utilities deriving less than one percent (1%) of their total gross operating revenues from business in Tennessee and they shall be permitted to keep their accounting records in accordance with the system of accounts prescribed by the State Authority of the State in which a majority of their gross revenues are derived.

- ~~(3) That each utility subject to the jurisdiction of this Commission shall notify this Commission within thirty (30) days from the date of this order of its election to adopt either the "service life flow through" method of accounting or the "initial year flow through" method of accounting for the treatment of the investment tax credit as provided by Section 38 of the 1954 Internal Revenue Code, as amended, and specifically the 1962 and 1964 Revenue Acts.~~
- ~~(4) That utilities deriving less than one percent (1%) of their total gross operating revenues from business in Tennessee shall be permitted to keep their accounting records in accordance with the system of accounts prescribed by the State Authority of the State in which a majority of their gross revenues are derived.~~
- (5)(3) That the election once made by a utility shall not be subject to change without prior formal approval of this Commission.

**Authority:** T.C.A. §§ 65-2-102, 65-4-101, 65-4-104, and 65-4-111. **Administrative History:** Original rule certified May 9, 1974. Amendment filed October 13, 1978; effective November 27, 1978. Amendment filed August 26, 1988; effective November 29, 1988. Editorial changes made by the Secretary of State pursuant to Public Chapter 305 of 1995; "Commission" and references to the "Commission" were (Rule 1220-04-01-.11, continued)

changed to "Authority" and references to the "Authority"; effective March 28, 2003. Amendment filed February 11, 2015; effective May 12, 2015. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."

#### **1220-04-01-.12 REPEALED.**

**Authority:** T.C.A. § 65-2-102. **Administrative History:** Original rule certified May 9, 1974. Amendment filed March 12, 1981; effective April 27, 1981. Repeal filed October 29, 1993; effective March 1, 1994. Administrative changes made to this chapter on April 27, 2018 pursuant to Public Chapter 94 of 2017; "Tennessee Regulatory Authority" references were changed to "Tennessee Public Utility Commission," "Authority" references were changed to "Commission," "Authority Director" references were changed to "Commissioner," and "Chief" references were changed to "Director."