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April 19, 2021

**Via U.S. Mail and Email**

Executive Director Earl Taylor  
c/o Ectory Lawless  
Tennessee Public Utility Commission  
502 Deaderick Street, Fourth Floor  
Nashville, Tennessee 37243

**Re: Piedmont Natural Gas Company, Inc.; Docket No. 21-00018  
Comments of Piedmont Natural Gas Company, Inc.**

Dear Mr. Taylor:

Enclosed please find for filing in Docket No. 21-00018 Comments of Piedmont Natural Gas Company, Inc., along with its Exhibit A.

This material is also being filed today by way of email to the Tennessee Public Utility Commission docket manager, Ectory Lawless. Please file the original of each and provide us a "filed" stamped copy of each via email to my assistant, at [denise.guye@wallerlaw.com](mailto:denise.guye@wallerlaw.com).

Very truly yours,

A handwritten signature in blue ink, appearing to read "Paul S. Davidson".

Paul S. Davidson

Enclosures

cc: James H. Jeffries IV

**BEFORE THE PUBLIC UTILITY COMMISSION  
NASHVILLE, TENNESSEE**

**DOCKET TO COLLECT AND )  
CONSIDER INFORMATION )  
RELATING TO COMMISSION )  
PRACTICE AND PROCEDURE )  
RULEMAKING ON TENN. R. & REGS. )  
1220-01-01, 1220-01-02, AND OTHER )  
SECTIONS AS DETERMINED )  
RELEVANT )**

**DOCKET NO. 21-00018**

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**COMMENTS OF PIEDMONT NATURAL GAS COMPANY, INC.**

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Piedmont Natural Gas Company, Inc. (“Piedmont,” or the “Company”), pursuant to the Notice of Deadline for Filing Comments in this matter issued by the Tennessee Public Utility Commission (the “Commission”) on March 19, 2021, submits the following comments in support of modifications to the Commission’s Rules of Practice and Procedure.

**I. PRELIMINARY STATEMENT**

The Commission issued its Notice of Rule Development Workshop on Commission Practice and Procedure on February 11, 2021 and scheduled an informal workshop in this docket for February 25, 2021. The Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General (“CAU”) and Chattanooga Gas provided written comments in advance. The Commission Staff, CAU and a number of other affected utilities participated in this workshop. Subsequently, many affected utilities held a telephone conference to discuss proposed modifications. On March 11, 2021, many of the participants in the workshop, including the CAU, Commission Staff and affected utilities held a further conference to discuss proposed modifications. Piedmont participated in these discussions. Based on matters discussed in the workshop and follow up conferences, Piedmont provides the following comments.

## **II. COMMENTS**

### **A. Minimum Filing Requirements (“MFRs”).**

The Commission has established MFRs for rate cases. Piedmont agrees that MFRs are appropriate for general base rate cases and for Annual Review Mechanisms/Filings (“ARMs”). Piedmont requests that the Commission direct affected utilities to work together with Commission Staff and the CAU to review existing MFRs and work together in good faith to develop a duty of minimum disclosure in general rate cases on a going forward basis that is reasonable and relevant. The purpose of this collaborative effort would be to develop MFRs addressing the specific matters at issue so that relevant and necessary information is provided up front and any necessary follow up discovery is appropriately streamlined. If the Commission agrees with this collaborative approach, Piedmont will designate the appropriate personnel to participate.

While MFRs for a general base rate case may be standardized in the manner describe above, Piedmont believes MFRs for other alternative rate mechanisms/filings should be developed through a mandatory discovery conference among the parties, their subject matter experts and Commission Staff on a case by case basis.

### **B. Timing and Scope of Discovery Beyond MFRs**

Piedmont supports the filing of a proposed procedural schedule along the utility’s initial filing that would include a deadline for motions to intervene. The scope of discovery beyond MFRs should be limited to the issues involved and proportional to the needs of the particular case, taking into account, among other factors, whether the burden or expense of proposed discovery outweighs the likely benefit. No one wants to have to deal with discovery disputes. Piedmont believes changes in the Rules of Practice and Procedure can go a long way to avoid such disputes; and in the unlikely event a dispute arises the

parties cannot resolve, the modifications described below can provide an efficient process for resolving them.

As a matter of practice, the current limit of 40 requests for discovery is not followed. In Piedmont's recent rate case, in addition to about 90 MFRs and responses to informal requests, the CAU propounded an additional approximate 400 information requests, some of which required the creation of analysis that did not currently exist. The first recommended change, designed to avoid imposing an undue discovery burden and expense as well as future disputes, is the rules be modified to require that the parties have a discovery planning conference after MFRs are made and reviewed; and that they work together in good faith to develop a reasonable discovery plan.

The discovery plan should cover the subjects on which discovery may be needed; when discovery is to be completed; appropriate limitations of discovery (including the number of requests); and whether discovery should be conducted in phases or focused on particular issues. That plan should then be jointly submitted by the parties to the Hearing Officer for approval or resolution of any differences between the parties at that point in time. This change would eliminate the current limit of 40 requests, but it would also insure a process to develop a reasonable discovery plan that would be approved by and enforced by the Hearing Officer. In the event of a later discovery dispute, Piedmont requests the rules be amended to require the parties meet and confer before filing any motion to compel and that they jointly file a stipulation setting forth the issues and their respective positions. This would have the benefit of expediting the Hearing Officer's understanding of the issues and her resolution. It should be noted that Piedmont does not favor elimination of the numerical limits on discovery absent procedural changes similar to its suggestions.

For the Commission's consideration, Piedmont attaches proposed changes to the contested case rules as **Exhibit A** to these comments.

### **C. Notice Requirements for Rate and Tariff Changes**

The CAU has proposed that public utilities provide sixty (60) days written notice to the Commission and CAU of the intent to file any non-scheduled filing requesting a change in rates. Piedmont believes thirty (30) days is sufficient. The intent to file notice should not require any substantive information about the filing beyond that it will be made. For a general base rate case, the utility will be providing substantive information in its MFRs and a subsequent discovery conference will allow the parties to jointly develop a reasonable and workable discovery plan. Such notice should not be required for more routine tariff adjustments and rate adjustments. That is, the rules should not impose uniform mandatory advance notice requirement to cover every possibility of a change affecting rates, instead schedules can be set on case by case basis. Some of these tariff and rate adjustments are routine in nature and may require quicker turnaround.

### **D. Public Notice of Rate Changes**

Piedmont agrees that the Commission should adopt new rules to modernize notice requirements to customers when rates are proposed to change. The rules should provide for disclosure of the basic information relating to the petition for a rate change, including, by way of example, the identity of the utility, information regarding the scale of the proposed increase, information about how the customer can provide comments, a link to the TPUC website, and the address of the Commission where comments may be submitted. The notice to customers should be made once a docket number has been assigned to the petition. In considering the methods for notification to the public, the Commission should take into consideration any technological limits of individual utilities billing systems.

### III. CONCLUSION

Piedmont appreciates having the opportunity to work with Commission Staff, the CAU and other affected utilities in this rule making process and believes the comments above reflect the goals of all involved and will result in the best outcome for the rate payers in Tennessee. Piedmont would be pleased to respond to questions from the Commission or its Staff and to engage in further discussions with the affected parties

April 19, 2021.

Respectfully submitted,

*s/ Paul S. Davidson*

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*Attorneys for Piedmont Natural Gas Company, Inc.*

### **Certificate of Service**

The undersigned hereby certifies that the foregoing Comments of Piedmont Natural Gas Company, Inc. have been served by mailing a copy of the same by United States Mail, postage prepaid, or email, to below on this the 19<sup>th</sup> day of April, 2021, as follows:

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*Paul S. Davidson*

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Paul S. Davidson

**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.

**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.
- (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.
- (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.
- (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.
- (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 that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to the relevant information, the parties resources, the importance of discovery in resolving the issues in the case, and whether the burden or expense of the proposed discovery outweighs the likely benefit. -In any case where discovery is sought, no discovery shall be undertaken until after (a) the parties have met and conferred and attempted in good faith to develop a proposed discovery plan and (b) a discovery schedule is set by the Hearing Officer in accordance with these rules. In the discovery planning conference the parties must take reasonable steps to avoid undue burden or expense in discovery. The discovery plan must include the parties proposals (and any differing views) regarding: the subjects on which discovery may be needed, when discovery should be completed; whether discovery should be conducted in phases or be limited to or focused on particular issues; and a proposed limit on the number of interrogatories and document requests. The discovery plan is to be submitted to the hearing officer within 14 days after the conference and the Hearing Officer will conduct a scheduling conference thereafter to approve a discovery plan and set a schedule. ~~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 these rules and 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 failed to confer with the other parties as required in (1) above or has unreasonably delayed in seeking discovery and if discovery would unreasonably delay disposition of the case on its merits.
- (3) Each petition for discovery outside of the discovery plan approved by the Hearing Officer 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.~~

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~~(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. All responses to interrogatories shall be signed under oath.

~~(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) Before filing any motion to limit or compel discovery or asking for a discovery conference to resolve a discovery dispute, counsel for the parties must confer in good faith in an effort to resolve by agreement the issues raised. If the parties are not able to resolve the discovery issue, they must, in connection with any request for a discovery conference or a discovery motion, file a joint discovery dispute statement: (a) detailing their attempt at resolution; (b) setting forth exactly what discovery is in dispute (either by including the text of the discovery requests and responses or by attachment as exhibits); and (c) detailing the parties' respective positions. This joint statement must be filed before any request for a discovery conference with the Commission or Hearing Officer is made, and must be attached to any filed discovery motion. 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.

~~(+1)~~(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.

~~(+2)~~(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;
  - (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 pre-hearing 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 pre-hearing 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. Subpoenas to non-parties must comply with Rule 45 of the Tennessee Rules of Civil Procedure. 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 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 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.

**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. § 4-5-317(c), or it shall be deemed denied;
  - (b) If the petition is granted, the matter shall be heard as soon as practicable;
  - (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 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.**

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 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.
- (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.
  - (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 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.

(a)

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

**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

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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 pursuant to Tenn. Code Ann. § 65-5-103, et seq. shall notify the Commission, ~~the Attorney General, and all parties of record appearing in the public utility's last rate case~~ of its intent to file the application at least ~~60~~30 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.~~

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~~(2)~~<sup>(1)</sup> Along with the public utility's initial filing of its petition for revision of rates, the public utility shall also (a) submit a proposed preliminary procedural schedule, to include deadlines for intervention, subject to modifications as may be deemed necessary by the Commission; and (b) prepare and submit ~~its 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.

~~(3)~~(2) The public utility must begin sending the notice to customers within 60 days of the filing of its petition, 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.

~~(4)~~(3) 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.
- (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;
  - (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

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.
  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 Railroad and Utilities 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 Utility Commissions.
  - (e) For Classes A and B electric companies - Uniform System of Accounts as adopted by the National Association of Regulatory Utility Commissions.
  - (f) For Classes C and D electric companies - Uniform System of Accounts as adopted by the National Association of Regulatory Utility Commissions.
  - (g) For Classes A, B, and C water companies - Uniform System of Accounts as adopted and amended by the National Association of Regulatory Utility Commissions.
  - (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 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 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.”