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23-00001

## Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

<b>Agency/Board/Commission:</b>	Tennessee Public Utility Commission
<b>Division:</b>	Utilities/Legal
<b>Contact Person:</b>	Kelly Cashman-Grams, General Counsel
<b>Address:</b>	502 Deaderick Street, 4 <sup>th</sup> Floor, Nashville TN 27243
<b>Phone:</b>	615-770-6856
<b>Email:</b>	Kelly.Grams@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

<b>ADA Contact:</b>	Ectory Lawless, Docket & Records Manager
<b>Address:</b>	502 Deaderick Street, 4 <sup>th</sup> Floor, Nashville TN 27243
<b>Phone:</b>	615-770-6850
<b>Email:</b>	Ectory.Lawless@tn.gov

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	William R. Snodgrass Tennessee Tower State Office Bldg., Tennessee Room 2, 3 <sup>rd</sup> Floor
Address 2:	312 Rosa Parks Avenue (formerly 8 <sup>th</sup> Avenue North)
City:	Nashville
Zip:	37243
Hearing Date:	March 20, 2023
Hearing Time:	11:00 a.m. <input checked="" type="checkbox"/> XX <input type="checkbox"/> CST/CDT <input type="checkbox"/> EST/EDT

**Additional Hearing Information:**

The hearing will begin either at 11:00 a.m. or, if not yet completed, immediately following the conclusion of the Tennessee Public Utility Commission's March Conference and Commissioner's Meeting, which is scheduled to be convened at 9:00 a.m. CDT, whichever is later.

**Revision Type (check all that apply):**

☐ Amendment  
☒ New  
☐ Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1220-04-15	Utility Cybersecurity Reporting
Rule Number	Rule Title
1220-04-15-.01	Definitions

1220-04-15-.02	Confidentiality
1220-04-15-.03	Cybersecurity Plan

Chapter Number	Chapter Title
1220-04-15	Utility Cybersecurity Reporting
Rule Number	Rule Title
1220-04-15-.04	Annual Filing Requirements
1220-04-15-.05	Failure to Comply; Sanctions
1220-04-15-.06	Required Notification to Commission of Cyber Event
1220-04-15-.07	Cost Recovery for Cybersecurity Investment

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

#### 1220-04-15-.01 Definitions

(1) Commission – means the Tennessee Public Utility Commission.

(2) Cybersecurity event – any unauthorized use, alteration, ransom, or destruction of electronic data involving a utility's information or operation technology systems; a cybersecurity event that has been determined to have an impact on the organization prompting the need for response and recovery.

(3) Cybersecurity plan - a plan that provides for the protection of the utility's information technology and operational technology systems from unauthorized use, alteration, ransom, or destruction of electronic data.

(4) Information Technology - any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the utility. The term information technology includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

(5) Information Technology System (IT System) – hardware and software related to electronic processing, and storage, retrieval, transmittal, and manipulation of data.

(6) Operational Technology - programmable systems or devices that interact with the physical environment (or manage devices that interact with the physical environment) used to provide utility service. These systems/devices detect or cause a direct change through the monitoring and/or control of devices, processes, and events. Examples include industrial control systems, building management systems, fire control systems, and physical access control mechanisms.

(7) Operational Technology System (OT System) – a system or network that monitors or controls electric, gas, wastewater or water system infrastructure used for utility operations.

(8) Utility – a public utility defined by T.C.A. § 65-4-101 that provides electric, water, wastewater, or natural gas services.

Authority: T.C.A. §§ 65-2-102, 65-4-101, and 65-4-127.

#### 1220-4-15-.02 Confidentiality

All documentation submitted in accordance with T.C.A. § 65-4-127 and these rules shall be treated as confidential and protected from public inspection.

Authority: T.C.A. §§ 65-2-102, 65-4-127, 10-7-504(a)(21)(i), and 10-7-504(a)(21)(C)(iii).

#### 1220-4-15-.03 Cybersecurity Plan

(1) By July 1, 2023, or within one (1) year after a utility is formed, whichever is later, a utility shall prepare and implement a cybersecurity plan.

(2) Cybersecurity plans implemented in compliance with these rules must be assessed and updated by the utility no less frequently than once every two (2) years to address new threats.

Authority: T.C.A. §§ 65-2-102 and 65-4-127.

#### 1220-4-15-.04 Annual Filing Requirements

(1) By July 1<sup>st</sup> of each calendar year, all utilities shall submit an attestation that the utility has prepared and implemented a cybersecurity plan. At a minimum, the attestation shall include:

(a) A summary of the program and procedures that describe the utility's approach to cybersecurity awareness and protection;

(b) Contact information for utility employee(s) responsible for cybersecurity;

(c) A statement indicating whether the utility conducts annual cybersecurity training for the utility personnel with access to any utility IT or OT system;

(d) A statement indicating whether the utility has a plan for communicating a cybersecurity event that results in loss of service, financial harm, or breach of sensitive business or customer data. The statement should specify whether the plan includes notification to the Commission and utility customers;

(e) A summary of any cybersecurity event during the reporting year that resulted in material loss of service, financial harm, or breach of sensitive business or customer data, including parties notified of the unauthorized action and remedial actions undertaken; and

(f) A statement indicating whether the utility has procured cybersecurity insurance, and, if so, the current term and limits of such coverage.

(2) The documentation filed must include a sworn statement by the utility's chief executive officer, president or another person with an equivalent role and authority. Such statement shall, at a minimum, affirm that the utility:

(a) Has prepared and implemented the cybersecurity plan described in the filing;

(b) The cybersecurity plan has been prepared or updated within the last two (2) years; and

(c) That all documentation and information filed is current and accurate.

Authority: T.C.A. §§ 65-2-102 and 65-4-127.

#### 1220-4-15-.05 Failure to Comply; Sanctions

(1) A utility fails to comply with these rules, and is considered in non-compliance, when:

(a) The company does not file documentation required by these rules showing that it has prepared a cybersecurity plan by July 1<sup>st</sup> of each calendar year; and

(b) The company does not file documentation required by these rules showing that it has implemented that cybersecurity plan by July 1<sup>st</sup> of each calendar year.

(2) After hearing, the Commission may impose reasonable sanctions, including civil and monetary penalties, against a utility in non-compliance with these rules.

(3) Monetary penalties imposed by the Commission will be consistent with the statutory limit set in T.C.A. § 65-4-120.

(4) If the Commission determines that sanctions shall include a monetary penalty, it may consider:

- (a) The efforts the utility to comply with these rules;
  - (b) The financial stability of the utility; and
  - (c) The impact of noncompliance on customers of the utility.
- (5) The Commission may require a utility to establish a separate fund to further support its compliance with these rules.
- (6) Any utility in non-compliance shall be reported to the General Assembly in accordance with T.C.A. § 65-4-127(f).

Authority: T.C.A. §§ 65-2-102, 65-4-120, and 65-4-127.

#### 1220-4-15-.06 Required Notification to Commission of Cyber Event

- (1) If a utility experiences a cybersecurity event, it shall notify, both verbally and in writing, the Chair of the Commission or their designee within 48 hours of the utility's discovery of the cybersecurity event.
- (2) Within 30 days of the discovery of the cybersecurity event, the utility shall be available and prepared to brief the Chair of the Commission or their designee on the impact of the cybersecurity event to utility customers and on utility operations.

Authority: T.C.A. §§ 65-2-102 and 65-4-127.

#### 1220-4-15-.07 Cost Recovery for Cybersecurity Investment

- (1) To the extent that costs related to action required by this rule are not already recovered in rates, the utility may seek cost recovery:

- (a) By filing a petition pursuant to T.C.A. 65-5-103; or
- (b) If permissible, by requesting an alternative regulatory mechanism pursuant to T.C.A. 65-5-103(d).

Authority: T.C.A. §§ 65-2-102, 65-4-127, and 65-5-103.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 1/17/2023

Signature: \_\_\_\_\_

*Kelly Cashman Grams*

Name of Officer: Kelly Cashman-Grams

Title of Officer: General Counsel

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Filed with the Department of State on: 1/17/2023

*Tre Hargett*

Tre Hargett  
Secretary of State

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Jan 17 2023, 11:35 am

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