

CHAPTER 7829

PUBLIC UTILITIES COMMISSION

PRACTICE AND PROCEDURE

7829.0100	DEFINITIONS.	7829.1800	INITIAL CONSIDERATION OF FORMAL COMPLAINT.
7829.0200	SCOPE AND CONSTRUCTION.	7829.1900	COMMISSION ACTION ON FORMAL COMPLAINT.
7829.0300	COMPUTATION OF TIME.	7829.2000	ELECTRIC SERVICE AREA COMPLAINT.
7829.0400	SERVICE AND FILING REQUIREMENTS.	7829.2100	COMMISSION ACTION ON SERVICE AREA COMPLAINT.
7829.0500	TRADE SECRET AND PROPRIETARY INFORMATION.	7829.2200	TELEPHONE INCENTIVE PLAN FILING.
7829.0600	GENERAL SERVICE LIST.	7829.2300	CLASSIFICATION PETITION.
7829.0700	OFFICIAL SERVICE LIST.	7829.2400	FILINGS REQUIRING DETERMINATION OF GROSS REVENUE REQUIREMENT.
7829.0800	PETITION TO INTERVENE.	7829.2500	CERTIFICATE OF NEED FILING.
7829.0900	PARTICIPANT.	7829.2600	STAFF COMMENTS.
7829.1000	REFERRAL FOR CONTESTED CASE PROCEEDING.	7829.2700	PROCEDURE FOLLOWING REPORT OF ADMINISTRATIVE LAW JUDGE.
7829.1100	PUBLIC HEARING.	7829.2800	GENERAL NOTICE REQUIREMENT.
7829.1200	INFORMAL OR EXPEDITED PROCEEDING.	7829.2900	DECISION AND ORDER.
7829.1300	MISCELLANEOUS TARIFF AND PRICE LIST FILINGS.	7829.3000	PETITION FOR REHEARING, AMENDMENT, VACATION, RECONSIDERATION, REARGUMENT.
7829.1400	COMMENTS ON MISCELLANEOUS TARIFF OR PRICE LIST FILING.	7829.3100	TIME PERIODS VARIED.
7829.1500	INFORMAL COMPLAINT.	7829.3200	OTHER VARIANCES.
7829.1600	TREATMENT OF INFORMAL COMPLAINT.		
7829.1700	FORMAL COMPLAINT.		

7829.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given them in this part.

Subp. 2. **Classification petition.** "Classification petition" means a petition filed by a telephone company to classify a telephone service as subject to emerging or effective competition under Minnesota Statutes, section 237.59.

Subp. 3. **Commission.** "Commission" means the Minnesota Public Utilities Commission.

Subp. 4. **Complainant.** "Complainant" means a person who complains formally or informally of an alleged violation of a statute or rule within the commission's jurisdiction, a utility tariff, or a commission order.

Subp. 5. **Cost increase filing.** "Cost increase filing" means a miscellaneous tariff filing under Minnesota Statutes, section 237.63, proposing a rate increase for a particular telephone service on grounds that the actual costs of providing that particular service have increased. It does not include cost increases that are part of overall cost increases and cost increases that have been discovered as a result of new cost studies.

Subp. 6. **Department.** "Department" means the Minnesota Department of Public Service.

Subp. 7. **Expedited proceeding.** "Expedited proceeding" means an informal proceeding described in Minnesota Statutes, section 237.61, and subject to specific procedural requirements such as verification of pleadings.

Subp. 8. **Informal proceeding.** "Informal proceeding" means a proceeding that addresses and resolves issues of public policy, fact, or law without a formal contested case proceeding before the Office of Administrative Hearings.

Subp. 9. **Intervenor.** "Intervenor" means a person permitted to intervene as a party in a proceeding under this chapter.

Subp. 10. **Language change filing.** "Language change filing" means a miscellaneous tariff filing under Minnesota Statutes, section 237.63, changing descriptive language in a telephone utility tariff without changing the meaning or operation of the tariff.

Subp. 11. **Miscellaneous tariff filing.** "Miscellaneous tariff filing" means a request or notice that does not require determination of the utility's revenue requirement.

A miscellaneous tariff filing includes a filing involving a new service offering; a change in a utility's rates, services, terms, or conditions of service; a change in a utility's corporate

structure, assigned service area, or capital structure, when conducted separately from a general rate proceeding; or any related matter. The term also includes a language change filing, cost increase filing, and rate reduction filing.

The inclusion of a particular type of filing in this list does not require a filing that would not otherwise be required or confer jurisdiction that would not otherwise be present.

Subp. 12. **Municipality.** "Municipality" includes a town, statutory city, and home rule charter city.

Subp. 13. **Participant.** "Participant" means a person who files comments or appears in a proceeding, other than public hearings held in contested cases and other commission proceedings conducted to receive general public comments, to present views without becoming a party.

Subp. 14. **Party.** "Party" means a person by or against whom a proceeding before the commission is commenced or a person permitted to intervene in a proceeding under this chapter. A party to a proceeding is styled a "petitioner," "complainant," "intervenor," or "respondent," according to the nature of the proceeding and the relationship of the party to the proceeding.

Subp. 15. **Person.** "Person" means a natural person, corporation, municipal corporation, public corporation, utility, governmental entity, government agency, association, partnership, receiver, joint venture, trustee at common law or statutory trust guardian, or executor.

Subp. 16. **Petitioner.** "Petitioner" means a person who requests the commission's permission, authorization, or approval or a person who notifies the commission of a proposed change in a rate, service, or term or condition of service.

Subp. 17. **Price list filing.** "Price list filing" means a filing under Minnesota Statutes, section 237.60, pertaining to telephone services claimed to be subject to emerging or effective competition.

Subp. 18. **Proceeding.** "Proceeding" means a formal or informal undertaking of the commission, in which it seeks to resolve a question or issue taken up on its own motion or presented to it in a complaint, petition, or notice of a proposed change in a rate, service, or term or condition of service.

Subp. 19. **Proof of service.** "Proof of service" means a certificate of service stating the facts of service, including the time and manner of service and the parties served.

Subp. 20. **Rate reduction filing.** "Rate reduction filing" means a miscellaneous tariff filing under Minnesota Statutes, section 237.63, proposing a reduction in a rate for telephone service.

Subp. 21. **Respondent.** "Respondent" means a person against whom a complaint is filed or against whom an investigation or other proceeding on commission motion is addressed.

Subp. 22. **Suspend.** "Suspend" means to hold in abeyance or to delay the effective date of.

Subp. 23. **Utility.** "Utility" means a gas, electric, or telephone company subject to the jurisdiction of the commission.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.0200 SCOPE AND CONSTRUCTION.

Subpart 1. **Construction.** This chapter must be construed to secure the just, speedy, and economical determination of issues before the commission. This chapter must be construed in light of the commission's statutory authority and responsibilities.

Subp. 2. **Conflicting statutes and substantive rules to control.** This chapter governs practice and procedure in matters before the commission except when a statute or a rule on a specific topic contains procedural requirements in direct conflict with this chapter. Then, the statute or rule on a specific topic controls insofar as it is in direct conflict with this chapter.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.0300 COMPUTATION OF TIME.

In computing a period of time prescribed by this chapter, the commission shall exclude the first and include the last day of the designated period of time. When the last day of the time period falls on Saturday, Sunday, or a legal holiday, that day must be omitted from the computation.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.0400 SERVICE AND FILING REQUIREMENTS.

Subpart 1. **Filing.** Documents are filed with the commission when they are received in the commission offices during regular business hours. Specific documents may be filed by facsimile transmission or filed when mailed, with the consent of the executive secretary. Documents must be directed to the attention of the executive secretary.

Subp. 2. **Number of copies.** Parties and participants shall file an original and 15 copies of each document filed with the commission, unless otherwise directed by the executive secretary.

Subp. 3. **Proof of service.** Filings must be accompanied by proof of service on the persons on the appropriate service list.

Subp. 4. **Format.** Filings must identify the nature of the filing as briefly as possible, for example, "Replies to Exceptions to Report of Administrative Law Judge," and indicate that the matter is before the Minnesota Public Utilities Commission. Filings after the original filing must include the title and docket number of the matter. Filings must be on 8-1/2 by 11-inch paper, unless the executive secretary authorizes a nonconforming filing for good cause shown.

Subp. 5. **Service.** A document filed with the commission must be served the same day on the persons listed on the appropriate service list, except when this chapter permits service of a summary of the filing. Service may be accomplished by first class mail or by delivery in person, unless otherwise provided by law or commission order. Service may also be accomplished by facsimile transmission, followed by first class mail. Service on the department is complete upon receipt by the department. For all other persons, service by mail or facsimile transmission plus mail is complete upon mailing, unless the executive secretary directs otherwise for specific documents. When a party or participant is represented by an attorney, service upon the attorney is considered service upon the party or participant.

Subp. 6. **Proceeding before administrative law judge.** During the time that a matter is before an administrative law judge, service and filing requirements are controlled by the rules of the Office of Administrative Hearings and by any orders issued under those rules by the administrative law judge.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.0500 TRADE SECRET AND PROPRIETARY INFORMATION.

Subpart 1. **Confidentiality protected.** Nothing in this chapter requires the public disclosure of privileged proprietary information, trade secrets, or other privileged information.

Subp. 2. **Procedure for excision.** Persons filing documents containing proprietary information, trade secrets, or other privileged information shall excise this information in all copies but the original and six copies.

Subp. 3. **Identification of excised material.** When a person classifies an entire document, or a substantial part of a document, as protected information, the person shall file a description of the excised material that includes at least the following information: the nature of the material, its authors, its general import, and the date on which it was prepared.

Subp. 4. **Document containing protected information.** The first page or cover page of a document containing protected information must be clearly marked in bold print "TRADE SECRET INFORMATION — NOT FOR PUBLIC DISCLOSURE" or with words of similar import. Every page on which protected information appears must be similarly marked and

the protected information must be underlined, placed in brackets, or otherwise clearly identified as the information which is to be protected from disclosure.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.0600 GENERAL SERVICE LIST.

Subpart 1. Establishing list. Persons desiring to receive notice of particular types of filings and who are qualified to intervene under part 7829.0800 shall file with the utility a written list of the types of filings they wish to receive. The utility shall maintain general service lists of persons who have filed these requests. The utility shall add to each list the persons who intervened in its last general rate case and persons on the official service list for its last filing of the same type.

Subp. 2. Annual updating. The utility may delete from its general service list a person who fails to respond within 30 days to an annual mailing inquiring whether that person wishes to continue receiving the filings requested.

Subp. 3. Periodic addition. A person may be added to the utility's general service list at any time by filing a request under subpart 1, even if the person failed to respond to an annual mailing as described in subpart 2.

Subp. 4. Jurisdiction unaffected. The service lists established in this part are intended to provide the earliest possible notice to persons who may be interested in a particular filing. The requirements of this part do not displace or add to legal notice requirements, and a utility's failure to comply with this part does not deprive the commission of jurisdiction over a matter of which it would otherwise have jurisdiction, require dismissal of a filing, or invalidate any determination made by the commission in the matter.

Subp. 5. Party or participant status unaffected. Inclusion on a general service list does not confer party or participant status on persons included on the list.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.0700 OFFICIAL SERVICE LIST.

Subpart 1. Content. The official service list for each proceeding consists of the names of the parties and the names of participants who have filed a written request for inclusion on the service list with the executive secretary.

Subp. 2. Establishment and updating. The commission shall establish the official service list at the conclusion of the initial comment period and shall mail a copy of the list to the parties and to participants who have filed written requests for inclusion. A list established before commission action on a petition for intervention must include those persons whose intervention petitions are pending. The commission shall mail an updated official service list to the parties and participants if the official service list is later expanded or reduced. The commission need not mail the official service list in proceedings when the only parties are the department and a petitioner, complainant, or respondent.

Subp. 3. Limiting service list. On its own motion or at the request of a party, the commission shall limit the service list to parties to the proceeding if it finds that requiring service on participants is unduly burdensome.

Subp. 4. Name and address change. A party or participant who wishes to change the name or address of a person receiving service on behalf of the party or participant shall provide written notice of the change to the executive secretary and to persons on the official service list.

Subp. 5. Proceeding before administrative law judge. In proceedings before an administrative law judge in which the judge establishes a service list, the names on that service list must remain on the official service list for the remainder of the proceeding.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.0800 PETITION TO INTERVENE.

Subpart 1. Filing and service. A person who desires to become a party to a proceeding shall file a petition to intervene within the time set in this chapter. The petition must be served

on known parties and those persons on the utility's general service list for the matter, if applicable.

Subp. 2. Grounds for intervention. The petition must allege the grounds for intervention and must be granted upon a showing that: the person is specifically considered by statute to be interested in the particular type of matter at issue; the person is specifically declared by statute to be an interested party; or the outcome of the proceeding will bind or affect the person with respect to an interest peculiar to that person, as distinguished from an interest common to the public or other ratepayers in general, or the person's interests are not adequately represented by one or more other parties participating in the case.

Subp. 3. Intervention as of right. The department and the Office of the Attorney General, through its Residential Utilities Division, may intervene as of right in any proceeding before the commission. They become parties upon filing comments under this chapter and need not file petitions to intervene, except when the rules of the Office of Administrative Hearings require it.

Subp. 4. Objection to intervention. An objection to intervention must be filed within ten days of service of the petition to intervene.

Subp. 5. Disposition of petition. If there is no objection to intervention and a petition to intervene is not denied or suspended within 15 days of filing, the petition to intervene must be considered granted, unless the matter is referred to the Office of Administrative Hearings for contested case proceedings before the expiration of the 15-day period.

Subp. 6. Proceeding before administrative law judge. During the time that a matter is before an administrative law judge, intervention procedures are governed by the rules of the Office of Administrative Hearings and by orders issued under those rules by the administrative law judge.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.0900 PARTICIPANT.

A person may file comments in a proceeding before the commission without requesting or obtaining party status. A participant may also be granted an opportunity for oral presentations.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.1000 REFERRAL FOR CONTESTED CASE PROCEEDING.

If a proceeding involves contested material facts and there is a right to a hearing under statute or rule, or if the commission finds that all significant issues have not been resolved to its satisfaction, the commission shall refer the matter to the Office of Administrative Hearings for contested case proceedings, unless:

A. all parties waive their rights to contested case proceedings and instead request informal or expedited proceedings, and the commission finds that informal or expedited proceedings would be in the public interest; or

B. a different procedural treatment is required by statute.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.1100 PUBLIC HEARING.

When a public hearing is held in connection with a contested case proceeding, the commission shall, whenever possible, schedule the public hearing to be held before the evidentiary hearings.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.1200 INFORMAL OR EXPEDITED PROCEEDING.

Subpart 1. When appropriate. Informal or expedited proceedings may be used when contested case proceedings are not required, for example, when:

- A. there are no material facts in dispute;
- B. the parties and the commission have agreed to informal or expedited proceedings; or
- C. informal or expedited proceedings are authorized or required by statute.

Subp. 2. **Presentation of facts.** Written submissions are the preferred method of introducing facts. The commission shall allow oral presentation of facts when that can be done without compromising the rights of any person or the integrity of the proceeding. In informal proceedings, the commission shall require that factual allegations be made under oath or by affirmation when facts appear to be in dispute. In expedited proceedings, the commission shall require that factual allegations be made under oath or by affirmation and that documents filed in the proceeding be verified.

Subp. 3. **Notice.** The commission shall notify the persons on the official service list at least ten days before a meeting at which it may act on the basis of informal or expedited proceedings. Under exigent circumstances the executive secretary shall reduce the ten-day notice period.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.1300 MISCELLANEOUS TARIFF AND PRICE LIST FILINGS.

Subpart 1. **Summary.** A miscellaneous tariff filing and price list filing must include, on a separate page, a one-paragraph summary of the filing, sufficient to apprise potentially interested parties of its nature and general content.

Subp. 2. **Service.** The filing utility shall serve copies of each miscellaneous tariff filing on which commission action is required within 60 days, and each price list filing increasing the price of a competitive service, on the persons on the applicable general service list, on the department, and on the Residential Utilities Division of the Office of the Attorney General. For other filings, the utility may serve the summary described in subpart 1 on persons on the applicable general service list. The utility shall serve with the filing or the summary a copy of its general service list for the filing.

Subp. 3. **Content of filing subject to specific requirements.** In addition to complying with specific requirements imposed by statute or rule, miscellaneous tariff and price filings subject to specific filing rules must contain at least the following information:

- A. the name, address, and telephone number of the utility, without abbreviation;
- B. the name, address, and telephone number of the attorney for the utility, if the utility is using an attorney;
- C. the date of the filing and the date the proposed rate or service change will go into effect;
- D. the statute that the utility believes controls the time frame for processing the filing; and
- E. the signature and title of the utility employee responsible for the filing.

Subp. 4. **Content of filing not subject to specific filing rules.** In addition to complying with any specific requirements imposed by statute, miscellaneous tariff and price list filings not subject to specific filing rules must contain at least the following information:

- A. the name, address, and telephone number of the utility, without abbreviation;
- B. the name, address, and telephone number of the attorney for the utility, if the utility is using an attorney;
- C. the date of the filing and the date the proposed rate or service change will go into effect;
- D. the statute that the utility believes controls the time frame for processing the filing;
- E. the signature and title of the utility employee responsible for the filing; and
- F. a description of the filing, its impact on rates and services, its impact on the utility and affected ratepayers, and the reasons for the filing.

Subp. 5. **Rejection of filing.** The commission shall reject a filing found to be substantially out of compliance with this chapter or applicable statutory requirements.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.1400 COMMENTS ON MISCELLANEOUS TARIFF OR PRICE LIST FILING.

Subpart 1. **Initial comments.** A person wishing to comment on a miscellaneous tariff or price list filing shall do so within 30 days of its filing with the commission. A person wishing to comment on one of the following noncompetitive rate change filings shall do so within 20 days of its filing with the commission: a rate reduction filing, a cost increase filing, or a request for a significant change in a condition of telephone service. A person wishing to comment on a new telephone service, competitive or noncompetitive, shall do so within ten days of its filing with the commission. Comments must be served on the persons on the utility's general service list for the filing, as well as on the filing utility.

Subp. 2. **Petition to intervene.** If a person who files initial or reply comments is not entitled to intervene in commission proceedings as of right and desires full party status, the person shall file a petition to intervene before the initial or reply comment period expires. The intervention petition may be combined with the comments on the filing.

Subp. 3. **Comments to include procedural recommendation.** A person commenting on a miscellaneous tariff or price list filing and recommending its rejection, denial, or modification shall specify whether the person believes the filing requires a contested case proceeding, informal proceeding, expedited proceeding, or some other procedural treatment, together with the person's reasons for recommending a particular procedural treatment.

Subp. 4. **Reply comments.** The utility and other persons have ten days from the expiration of the original comment period to file reply comments. Reply comments must be served on the utility and persons who have filed comments on the miscellaneous tariff filing. Reply comments must be limited in scope to the issues raised in the initial comments.

Subp. 5. **Additional comments.** If further information is required to make a fully informed decision, the commission shall require additional comments and identify specific issues requiring further development.

Subp. 6. **Comments on supplemental or corrected filings.** The commission shall provide opportunity for other parties to respond to supplemental or corrected filings when those filings raise new issues.

Subp. 7. **Comment periods varied.** Except for comment periods set by statute, the commission may vary the comment periods set by this chapter on its own motion or at the request of a person for good cause shown. The commission may delegate the authority to vary time periods to the executive secretary.

Subp. 8. **Comment periods extended at department's request.** At the request of the department, the commission shall extend the comment periods in parts 7829.1300 and 7829.1400 up to an additional 30 days, except for comment periods established by statute and except when the commission must act within 60 days to prevent proposed rate changes from going into effect.

Subp. 9. **Requests for contested case proceedings.** Upon receipt of initial comments requesting a contested case proceeding on a miscellaneous tariff filing or price list filing, the commission shall immediately set the matter for consideration on a date after the time period for reply comments has run. If the commission finds a contested case proceeding is required, the commission shall refer the matter to the Office of Administrative Hearings pursuant to part 7829.1000, and the utility shall file its direct testimony in question and answer form within 20 days of the commission's notice and order for hearing.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.1500 INFORMAL COMPLAINT.

Persons engaged in disputes with utilities may submit informal complaints by letter or other writing, by telephone, or in person. Commission staff shall accept these complaints and

shall prepare a memorandum setting forth the substance of each complaint and identifying the customer, the service address, and the utility.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.1600 TREATMENT OF INFORMAL COMPLAINT.

Commission staff shall try to help resolve informal complaints by correspondence, mediation, arbitration, and other informal means. If the complainant desires formal action by the commission, a formal complaint must be initiated by the commission, or filed by a qualified complainant.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.1700 FORMAL COMPLAINT.

Subpart 1. **Content.** A formal complaint must include the following information: the name and address of the complainant; the name and address of complainant's counsel, if any; the name and address of respondent; the name and address of respondent's counsel, if known; the statute, rule, tariff, or commission order alleged to have been violated; the facts constituting the alleged violation; and the relief sought by complainant.

Subp. 2. **Mailing and filing.** A formal complaint must be mailed to the respondent, the department, and the Residential Utilities Division of the Office of the Attorney General, as well as filed with the commission.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.1800 INITIAL CONSIDERATION OF FORMAL COMPLAINT.

Subpart 1. **Initial commission review.** The commission shall review a formal complaint as soon as practicable to determine whether the commission has jurisdiction over the matter and to determine whether there are reasonable grounds to investigate the allegation. On concluding that it lacks jurisdiction or that there is no reasonable basis to investigate the matter, the commission shall dismiss the complaint.

Subp. 2. **Answer.** On concluding that it has jurisdiction over the matter and that investigation is warranted, the commission shall serve the complaint on the respondent, together with an order requiring the respondent to file an answer either stating that it has granted the relief the complainant requests, or responding to the allegations of the complaint. The answer must be filed with the commission and served on the complainant, the department, and the Residential Utilities Division of the Office of the Attorney General within 20 days of service of the complaint and order.

Subp. 3. **Reply.** Replies are not required unless the answer alleges that respondent has granted the relief sought by complainant. In that case, the complainant shall file a reply within 20 days admitting or denying that relief has been granted. If the complainant fails to file the reply, the commission shall dismiss the complaint. Copies of the reply must be served on respondents, the department, and the Residential Utilities Division of the Office of the Attorney General.

Subp. 4. **Failure to answer.** If the respondent fails to answer a complaint served by the commission under subpart 2, the commission shall consider the allegations of the complaint denied.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.1900 COMMISSION ACTION ON FORMAL COMPLAINT.

Subpart 1. **Nature of proceedings.** The commission shall deal with a formal complaint through a contested case proceeding, informal proceeding, or expedited proceeding.

Subp. 2. **Initial comments.** A person wishing to comment on a formal complaint shall do so within 30 days of the date of a commission order requiring an answer to the complaint.

Comments must be served on the complainant, respondent, department, Residential Utilities Division of the Office of the Attorney General, and any other known parties.

Subp. 3. Reply comments. A commenting party has ten days from the expiration of the original comment period to file reply comments. Reply comments must be limited in scope to the issues raised in the initial comments and must be served on the complainant, respondent, department, Residential Utilities Division Of the Office of the Attorney General, and any other known parties.

Subp. 4. Petition to intervene. If a person who files initial or reply comments is not entitled to intervene in commission proceedings as of right and desires full party status, the person shall file a petition to intervene before the initial or reply comment period expires. The intervention petition may be combined with the comments on the complaint.

Subp. 5. Comments to include procedural recommendation. A person commenting on a complaint shall specify whether the person believes the matter requires a contested case proceeding, informal proceeding, expedited proceeding, or some other procedural treatment, together with the reasons for recommending a particular procedural treatment.

Subp. 6. Additional comments. If further information is required to make a fully informed decision, the commission shall require additional comments and identify specific issues requiring further development.

Subp. 7. Comments on supplemental or corrected filings. The commission shall provide opportunity for other parties to respond to supplemental or corrected filings when those filings raise new issues.

Subp. 8. Comment periods varied. Except for time periods set by statute, the commission may vary the comment periods established in this part at the request of a person for good cause shown. The commission may delegate the authority to vary time periods to the executive secretary.

Subp. 9. Comment periods extended at department's request. At the request of the department, the commission shall extend the comment periods established in this part up to an additional 30 days, except for comment periods set by statute.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.2000 ELECTRIC SERVICE AREA COMPLAINT.

Subpart 1. Content. A complaint alleging violation of an electric utility's assigned service area must include a map that the complainant reasonably believes to be a copy of the official service area map of an area at issue, with the area of the alleged violation clearly marked.

Subp. 2. Service and filing. A service area complaint must be served on the respondent, department, and Residential Utilities Division of the Office of the Attorney General, as well as filed with the commission.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.2100 COMMISSION ACTION ON SERVICE AREA COMPLAINT.

Subpart 1. Answer. Within ten days of service of a service area complaint, a respondent shall file an answer with the commission and serve it on the complainant, department, and Residential Utilities Division of the Office of the Attorney General.

Subp. 2. Initial comments. A person wishing to comment on a service area complaint shall do so within ten days of the date the person was served. Comments must be served on the complainant, respondent, department, Residential Utilities Division of the Office of the Attorney General, and any other known parties.

Subp. 3. Petition to intervene. If a person who files comments is not entitled to intervene in a commission proceeding as of right and desires full party status, the person shall file a petition to intervene before the initial comment period expires. The intervention petition may be combined with the comments on the complaint and must be served on those persons entitled to service of the comments.

Subp. 4. **Additional comments.** If further information is required to make a fully informed decision, the commission shall require additional comments and identify specific issues requiring further development.

Subp. 5. **Comments on supplemental or corrected filing.** The commission shall provide opportunity for other parties to respond to supplemental or corrected filings when those filings raise new issues.

Subp. 6. **Time for disposition.** Service area complaints must come before the commission within 15 days of filing. The commission shall issue its order within 30 days after the hearing.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.2200 TELEPHONE INCENTIVE PLAN FILING.

Subpart 1. **Summary.** A telephone utility filing an incentive plan under Minnesota Statutes, section 237.625, shall include, on a separate page, a brief summary of the filing, sufficient to apprise potentially interested parties of its nature and general content.

Subp. 2. **Service.** A utility filing an incentive plan under Minnesota Statutes, section 237.625, shall serve copies of the incentive plan filing on the department and the Residential Utilities Division of the Office of the Attorney General. The utility shall serve the filing or the summary described in subpart 1 on those persons on the applicable general service list and on persons who were parties to its last general rate case or incentive plan proceeding.

Subp. 3. **Challenge to form and completeness.** A person wishing to challenge the form or completeness of an incentive plan filing shall do so within ten days of its filing. The filing utility shall reply to the challenge within five days of its filing. These challenges and responses must be served on the utility, the department, the Residential Utilities Division of the Office of the Attorney General, persons on the general service list for the filing, and any other known parties.

Subp. 4. **Rejection of filing.** The commission shall reject a filing that it finds to be substantially out of compliance with Minnesota Statutes, section 237.625, or with any other filing requirement imposed by rule or statute. An incentive plan filing not rejected within 45 days of filing is considered accepted as in substantial compliance with applicable filing requirements.

Subp. 5. **Procedural comments.** A person wishing to comment on a proposed incentive plan shall file comments within 20 days of its filing, recommending a specific procedural framework for examining the filing, including time frames for substantive comments and commission action. Procedural comments must be served on the utility, department, Residential Utilities Division of the Office of the Attorney General, persons on the general service list for the filing, and any other known parties.

Subp. 6. **Petition to intervene.** If a person desires full party status, but is not entitled to intervene in a commission proceeding as of right, the person shall file a petition to intervene before the procedural comment period expires. The intervention petition may be combined with procedural comments on the filing and must be served on those persons entitled to receive service of procedural comments.

Subp. 7. **Notice to public and ratepayers.** The utility shall give notice of the proposed incentive plan to its ratepayers and shall publish notice of the proposed plan in all newspapers of general circulation in all county seats in its service area.

Subp. 8. **Notice of public meeting.** The utility shall notify its ratepayers of public meetings on the proposed incentive plan scheduled by the commission and shall publish notice of the public meetings in all newspapers of general circulation in all county seats in its service area.

Subp. 9. **Nature of proceeding.** The commission shall deal with incentive plan filings by conducting an expedited proceeding under Minnesota Statutes, section 237.61. Following review of the procedural comments, the commission shall establish by order, time frames for submitting testimony and comments.

Subp. 10. **Time frame for disposition.** The commission shall approve, reject, or modify a proposed incentive plan within six months of filing. If the commission does not act

within that time, the plan is considered withdrawn, unless the commission and the utility agree to extend the six-month period.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.2300 CLASSIFICATION PETITION.

Subpart 1. Summary. A telephone utility filing a classification petition under Minnesota Statutes, section 237.59, shall include on a separate page a brief summary of the filing, sufficient to apprise potentially interested parties of its nature and general content.

Subp. 2. Service. A utility filing a classification petition shall serve copies of the petition on the department and Residential Utilities Division of the Office of the Attorney General. The utility shall serve the petition or the summary described in subpart 1 on those persons on the applicable general service list and on those persons who were parties to its last general rate case or incentive plan proceeding, if applicable.

Subp. 3. Challenges to form and completeness. A person wishing to challenge the form or completeness of a classification petition shall do so within ten days of its filing. The filing utility shall reply to the challenge within five days of its filing. Challenges and responses must be served on the department, Residential Utilities Division of the Office of the Attorney General, persons on the general service list for the filing, and any other known parties.

Subp. 4. Rejection of filings. The commission shall reject a classification petition found to be substantially out of compliance with Minnesota Statutes, section 237.59, or with any other filing requirement imposed by rule or statute. A filing under this section not rejected within 45 days of filing is considered accepted as in substantial compliance with applicable filing requirements.

Subp. 5. Initial comments. A person wishing to comment on a classification petition shall file initial comments within 20 days of the filing. Initial comments must include a recommendation on whether the filing requires a contested case proceeding, expedited proceeding, or some other procedural treatment, together with reasons for recommending a particular procedural treatment. Initial comments must be served on the utility, department, Residential Utilities Division of the Office of the Attorney General, persons on the general service list for the filing, and any other known parties.

Subp. 6. Petition to intervene. If a person who files initial comments is not entitled to intervene in a commission proceeding as of right and desires full party status, the person shall file a petition to intervene before the reply comment period expires. The intervention petition may be combined with comments on the filing and must be served on those persons entitled to receive service during the comment period when the intervention petition is filed.

Subp. 7. Reply comments. Commenting parties have ten days from the expiration of the original comment period to file reply comments. Reply comments must be limited in scope to the issues raised in the initial comments. Reply comments must be served on the utility and on those persons who have filed initial comments.

Subp. 8. Additional comments. If further information is required to make a fully informed decision, the commission shall require additional comments and identify specific issues requiring further development.

Subp. 9. Comments on supplemental or corrected filing. The commission shall provide opportunity for other parties to respond to a supplemental or corrected filing when the filing raises new issues.

Subp. 10. Nature of proceeding. The commission shall deal with a classification petition by conducting an expedited proceeding under Minnesota Statutes, section 237.61, or by referring the matter for a contested case proceeding.

Subp. 11. Time frame for disposition; expedited proceeding. When the filing utility requests an expedited proceeding on its classification petition, the commission shall take final action within 60 days of the date on which the utility provides the substantive information required by statute, unless the commission finds at least one issue of material fact in dispute and refers the matter for a contested case proceeding within the same 60-day period.

Subp. 12. Time frame for disposition; contested case proceeding. When the commission conducts a contested case proceeding, it shall take final action within eight months of the

utility's request for a contested case proceeding or the commission's order that contested case proceedings be held, whichever occurs earlier.

Subp. 13. **Extending disposition period.** The commission may extend the eight-month time frame set forth in subpart 12 with the agreement of all parties or upon a finding that the case cannot be completed within the required time and that there is a substantial probability that the public interest would be harmed by enforcing the eight-month time frame.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.2400 FILINGS REQUIRING DETERMINATION OF GROSS REVENUE REQUIREMENT.

Subpart 1. **Summary.** A utility filing a general rate case or other filing that requires determination of its gross revenue requirement shall include, on a separate page, a brief summary of the filing, sufficient to apprise potentially interested parties of its nature and general content.

Subp. 2. **Service.** A utility filing a general rate change request shall serve copies of the filing on the department and Residential Utilities Division of the office of the Attorney General. The utility shall serve the filing or the summary described in subpart 1 on the persons on the applicable general service list and persons who were parties to its last general rate case or incentive plan proceeding.

Subp. 3. **Notice to public and governing bodies.** A utility seeking a general rate change shall give notice of the proposed change to the governing body of each municipality and county in its service area and to its ratepayers. The utility shall also publish notice of the proposed change in newspapers of general circulation in all county seats in its service area.

Subp. 4. **Challenge to form and completeness.** A party wishing to challenge the form or completeness of a general rate case filing shall do so within ten days of its filing. The filing utility shall reply to the challenge within five days of its filing. Challenges and responses must be served on the department, Residential Utilities Division of the Office of the Attorney General, persons on the general service list for the filing, and any other known parties.

Subp. 5. **Rejection of filing.** The commission shall reject a filing under this part that is found to be substantially out of compliance with Minnesota Statutes, section 216B.16 or 237.075, or other requirement imposed by rule, statute, or previous commission order. A filing under this part not rejected within 60 days of filing is considered accepted as in substantial compliance with applicable filing requirements.

Subp. 6. **Petition to intervene.** The commission shall entertain a petition to intervene until the matter is referred to the Office of Administrative Hearings for a contested case proceeding or until the commission issues a notice under part 7829.1200, subpart 3, stating its intention to decide the matter on the basis of an informal or expedited proceeding. Once a filing is referred for a contested case proceeding, the rules of the Office of Administrative Hearings control intervention rights.

Subp. 7. **Notice of hearing.** The utility shall notify its ratepayers of hearings held in connection with its rate change request in the manner directed by the commission. The utility shall publish notice of hearings on its rate change request in newspapers of general circulation in all county seats in its service area, as directed by the commission.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.2500 CERTIFICATE OF NEED FILING.

Subpart 1. **Compliance.** Certificate of need applications must comply with the requirements of Minnesota Statutes, sections 216B.2421 and 216B.243; Minnesota Rules, chapters 7849, 7851, 7853, and 7855; and any other requirements imposed by rule or statute.

Subp. 2. **Summary.** A person filing a certificate of need application shall include, on a separate page, a brief summary of the filing, sufficient to apprise potentially interested parties of its nature and general content.

Subp. 3. **Service.** A certificate of need applicant shall serve copies of the filing on the department and Residential Utilities Division of the Office of the Attorney General. The ap-

plicant shall serve the filing or the summary described in subpart 2 on those persons on an applicable general service list and on those persons who were parties to its last general rate case or incentive plan proceeding, if applicable.

Subp. 4. Publication in State Register. The commission shall publish notice of the certificate of need filing in the State Register and shall solicit public comment on the application.

Subp. 5. Publication in newspapers. The applicant shall publish notice of the filing in newspapers of general circulation throughout the state.

Subp. 6. Solicitation of comments on filing compliance. The commission shall request comments on the filing's compliance with Minnesota Statutes, sections 216B.2421 to 216B.243, and Minnesota Rules, chapters 7849, 7851, 7853, and 7855, when it determines that comments would be helpful in evaluating the filing's substantial compliance with the requirements of those statutes and rules. The commission may delegate the authority to request these comments to the executive secretary.

Subp. 7. Rejection of filing. The commission shall reject a filing under this part that is found to be substantially out of compliance with Minnesota Statutes, sections 216B.2421 to 216B.243; Minnesota Rules, chapters 7849, 7851, 7853, and 7855; and any other requirements imposed by rule or statute. A filing under this section not rejected within 15 days of filing must be considered accepted as in substantial compliance with applicable filing requirements.

Subp. 8. Petition to intervene. The commission shall entertain a petition to intervene until the matter is referred to the Office of Administrative Hearings for a contested case proceeding or until the commission issues a notice under part 7829.1200, subpart 3, stating its intention to decide the matter on the basis of an informal or expedited proceeding. Once a filing is referred for a contested case proceeding, the rules of the Office of Administrative Hearings shall control intervention rights.

Subp. 9. Public hearing. If the commission decides to act on the application through an informal proceeding, the commission shall hold a public hearing designed to encourage members of the public to express their views on the application, as required under Minnesota Statutes, section 216B.243, subdivision 4. If the commission refers the application to the Office of Administrative Hearings for a contested case proceeding, the commission shall ensure that at least one public hearing is held.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.2600 STAFF COMMENTS.

Written comments on a filing by commission staff must be made available to those persons on the service list at the same time they are provided to the commission. If commission staff recommend action not advocated by any party, all parties must be granted oral comment at the request of any party.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.2700 PROCEDURE FOLLOWING REPORT OF ADMINISTRATIVE LAW JUDGE.

Subpart 1. Exceptions to administrative law judge's report. Except in cases subject to statutory deadlines, parties shall file and serve on the other parties any exceptions to an administrative law judge's report within 20 days of its filing. In cases subject to statutory deadlines, exceptions must be filed and served within 15 days of the filing of the report.

Subp. 2. Replies to exceptions. Except in cases subject to statutory deadlines, a party shall file and serve on all other parties any replies to exceptions within ten days of the due date for exceptions. In cases subject to statutory deadlines, replies are not permitted.

Subp. 3. Oral argument. Parties must be granted an opportunity for oral argument before the commission as required under Minnesota Statutes, section 14.61.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.2800 GENERAL NOTICE REQUIREMENT.

Matters may come before the commission only on ten days notice to the parties and those persons on the official service list. Under exigent circumstances the executive secretary shall reduce the ten-day notice period.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.2900 DECISION AND ORDER.

The executive secretary shall serve a decision and order of the commission on all parties and participants in the proceeding.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.3000 PETITION FOR REHEARING, AMENDMENT, VACATION, RECONSIDERATION, REARGUMENT.

Subpart 1. **Time for request.** A party or a person aggrieved and directly affected by a commission decision or order may file a petition for rehearing, amendment, vacation, reconsideration, or reargument within 20 days of the date the decision or order is served by the executive secretary.

Subp. 2. **Content of request.** A petition for rehearing, amendment, vacation, reconsideration, or reargument must set forth specifically the grounds relied upon or errors claimed. A request for amendment must set forth the specific amendments desired and the reasons for the amendments.

Subp. 3. **Service.** A petition for rehearing, amendment, vacation, reconsideration, or reargument, and an answer, reply, or comment, must be served on the parties and participants in the proceeding to which they relate.

Subp. 4. **Answers.** Other parties to the proceeding shall file answers to a petition for rehearing, amendment, vacation, reconsideration, or reargument within ten days of service of the petition.

Subp. 5. **Replies.** Replies are not permitted unless specifically authorized by the commission.

Subp. 6. **Commission action.** The commission shall decide a petition for rehearing, amendment, vacation, reconsideration, or reargument with or without a hearing or oral argument. The commission may vacate or stay the order, or part of the order, that is the subject of the petition, pending action on the petition.

Subp. 7. **Second petition not entertained.** A second petition for rehearing, amendment, vacation, reconsideration, or reargument of a commission decision or order by the same party or parties and upon the same grounds as a former petition that has been considered and denied, will not be entertained.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.3100 TIME PERIODS VARIED.

Except for time periods set by statute, the commission may vary the time periods established by this chapter on its own motion or at the request of a person for good cause shown. The commission may delegate the authority to vary time periods to the executive secretary.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*

7829.3200 OTHER VARIANCES.

Subpart 1. **When granted.** The commission shall grant a variance to its rules when it determines that the following requirements are met:

A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;

B. granting the variance would not adversely affect the public interest; and

MINNESOTA RULES 1995

7829.3200 PRACTICE AND PROCEDURE

788

C. granting the variance would not conflict with standards imposed by law.

Subp. 2. **Conditions.** A variance may be granted contingent upon compliance with conditions imposed by the commission.

Subp. 3. **Duration.** Unless the commission orders otherwise, variances automatically expire in one year. They may be revoked sooner due to changes in circumstances or due to failure to comply with requirements imposed as a condition of receiving a variance.

Statutory Authority: *MS s 216A.05*

History: *19 SR 116*