

# MINNESOTA STATUTES 1971

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DEPARTMENT OF PUBLIC SERVICE, PROCEDURE 216.15

## Railroads, Warehouses, Utilities, Grain, Livestock

### CHAPTER 216

#### DEPARTMENT OF PUBLIC SERVICE, PROCEDURE

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NOTE: For penalties for the violation of the provisions of this chapter, see section 235.13.

**216.01** [Repealed, 1967 c 864 s 10]

**216.02** [Repealed, 1967 c 864 s 10]

**216.03** [Repealed, 1967 c 864 s 10]

**216.04** [Repealed, 1967 c 864 s 10]

**216.05** [Repealed, 1967 c 864 s 10]

**216.06** [Repealed, Ex1957 c 10 s 8]

**216.07** [Repealed, Ex1957 c 10 s 8]

**216.08** [Renumbered 219.815]

**216.09** [Renumbered 219.695]

**216.10 ATTORNEYS; PROCEEDINGS IN NAME OF STATE.** The attorney general shall be ex officio attorney for the department of public service. He shall institute and prosecute all actions which the department shall order brought and render the commissioners all advice, counsel, and assistance necessary for the proper performance of their duties. The county attorney of any county in which an action is pending, prosecuted, or defended by direction of the department shall aid in the prosecution or defense thereof until final determination when requested by the department. When necessary the department may employ additional counsel to assist the attorney general.

All actions or proceedings instituted by the department shall be brought in the name of the state.

[R L ss 1960, 1979; 1971 c 25 s 67] (4635, 4658)

**216.11** [Repealed, 1967 c 864 s 10]

**216.12** [Repealed, Ex1957 c 10 s 8]

**216.13 PROCEEDINGS BEFORE DEPARTMENT; HOW COMMENCED.** Proceedings before the department against any such carrier or public warehouseman shall be instituted by complaint, verified as a pleading in a civil action, stating in ordinary language the facts constituting the alleged omission or offense. The parties to such proceedings shall be termed, respectively, "complainant" and "respondent."

[R L s 1963; 1971 c 25 s 67] (4638)

**216.14 NOTICE TO RESPONDENT.** Upon filing such complaint, if there appear reasonable grounds for investigating such matter, the department shall issue an order directed to such carrier or warehouseman requiring him to grant the relief demanded or show cause by answer within 20 days from the service of such notice why such relief should not be granted. Such order, together with a copy of the complaint, shall forthwith be served upon the respondent.

[R L s 1964; 1971 c 25 s 67] (4639)

**216.15 ANSWER.** The respondent may file and serve by mail upon the complainant, within 20 days after service of the order, an answer alleging that it has already granted the relief demanded or setting up any matter of defense. If the answer allege the granting of the relief the complainant shall within 20 days reply

admitting or denying such allegation. If he fails to reply or admits the allegation, the proceeding shall be dismissed.

[R. L. s. 1965] (4640)

**216.16 HEARINGS BEFORE DEPARTMENT.** If the matter be not adjusted to the satisfaction of the department, it shall set a time and place of hearing, and give at least ten days notice thereof to each party. The parties may appear either in person or by attorney. The department shall hear evidence and otherwise investigate the matter, make findings of fact upon all matters involved, and such order or recommendation in the premises as may be just. A copy of such findings and order or recommendation shall forthwith be served upon each party. No proceedings shall be dismissed on account of want of pecuniary interest in the complaint. The department is authorized to designate by resolution any of its employees to receive and report evidence. Employees so designated shall have power to administer oaths to witnesses, examine witnesses, and receive evidence. In any proceedings in which the evidence is received by one commissioner or by an employee so designated, such commissioner or employee shall make a full and complete report thereof to the department and the department shall proceed to a determination of the facts and issue its order or recommendation as hereinabove provided.

[R L s 1966; 1907 c 305; 1921 c 159 s 1; 1971 c 25 s 67] (4641)

**216.161 CONTESTED CASES; NOTICE.** Notwithstanding the provisions of any other law the department in any contested case shall give reasonable notice to representatives of associations or other interested groups or persons who have registered their names with the secretary of the department for that purpose, to all parties and to cities, villages and municipalities which the department deems to be interested in the proceeding.

"Contested case" means a proceeding before the department in which the legal rights, duties or privileges of specific parties are required by law or constitutional right to be determined after a hearing.

[1971 c 25 s 67; Ex1971 c 48 s 23]

**216.17 NOTICES AND ORDERS; SERVICE.** All notices and orders in proceedings before the department shall be signed by the secretary. Service may be made of all notices, orders, and other papers by mail upon any person or firm, or upon the president, general manager, or other proper executive officer of any corporation interested. If any party has appeared by attorney, such service shall be made upon such attorney.

[R L s 1967; 1971 c 25 s 67] (4642)

**216.18 WITNESSES.** The department in any hearing or investigation may require the attendance of witnesses and the production of any books, papers, and records. Witnesses shall receive the same fees and mileage as in civil actions. Disobedience of any subpoena in such proceeding or contumacy of a witness may, upon application of the department, be punished by any district court in the same manner as if the proceedings were pending in such court.

[R L s 1968; 1971 c 25 s 67] (4643)

**216.19** [Repealed, Ex1957 c 10 s 8]

**216.20** [Repealed, Ex1957 c 10 s 8]

**216.21** [Repealed, Ex1957 c 10 s 8]

**216.22** [Repealed, Ex1957 c 10 s 8]

**216.225** [Repealed, Ex1957 c 10 s 8]

**216.23** [Repealed, Ex1957 c 10 s 8]

**216.24 APPEALS TO DISTRICT COURT FROM ORDERS OF DEPARTMENT; PROCEDURE.** Any party to a proceeding before the department, or any party affected by any order thereof, or the state of Minnesota, by the attorney general, may appeal therefrom to the district court of the county in which the complainants, or a majority of them, reside, or in case none of them reside in the state, or in a proceeding commenced by the department on its own motion without complaint, to the district court of one of the counties in which the order of the department requires a service to be performed or an act to be done or not to be done by the carrier or warehouseman; or in case of train service, to the district court of one of the counties through which the train runs, at any time within 30 days after service of a copy of such order on the parties of record, as in this chapter provided, by service of a written notice of appeal on the department, or its secretary. Such 30 day

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period is not to become effective until all decisions, orders and requirements have been concluded on applications for rehearing, reargument or reconsideration. Upon service of the notice of appeal, the department, by its secretary, shall forthwith file with the clerk of the district court to which the appeal is taken a certified copy of the order appealed from together with findings of fact on which the same is based. In case appeals are taken to the district court of more than one county, they shall be consolidated and tried in the district court of the county to which the first appeal was taken.

[R L s 1971; 1907 c 167 s 1; 1917 c 291 s 1; 1971 c 25 s 67; 1971 c 645 s 1] (4650)

**216.25 APPEALS; ORDERS NOT APPEALED; PROCEEDINGS; REVIEW BY SUPREME COURT.** The person serving such notice of appeal shall, within such 30 day period, file the same with proof of service, with the clerk of the court to which such appeal is taken; and thereupon the district court shall have jurisdiction over the appeal and the same shall be entered upon the records of the district court and shall be tried therein according to the rules relating to the trial of civil actions so far as the same are applicable. The complainant before the department, if there was one (otherwise the state of Minnesota), shall be designated as complainant in the district court, and the carrier or warehouseman as defendant. No further pleadings than those filed before the department shall be necessary. Such findings of fact shall be prima facie evidence of the matters therein stated, and the order shall be prima facie reasonable, and the burden of proof upon all issues raised by the appeal shall be on the appellant. If the court shall determine that the order appealed from is lawful and reasonable, it shall be affirmed and the order enforced as provided by law. If it shall be determined that the order is unlawful or unreasonable, it shall be vacated and set aside. Such appeal shall not stay or supersede the order appealed from unless the court upon examination of the order and the return made on the appeal, and after giving the respondent notice and opportunity to be heard, shall so direct. If such appeal is not taken such order shall become final, and it shall thereupon be the duty of the carriers affected to adopt and publish the rates or classifications therein prescribed. When no appeal is taken from an order, as herein provided, the parties affected by such order shall be deemed to have waived the rights to have the merits of such controversy reviewed by a court, and there shall be no trial of the merits or reexamination of the facts of any controversy in which such order was made, by any district court to which application may be made for a writ to enforce the same. Any party to a proceeding in the district court may appeal to the supreme court of Minnesota from the order or judgment of such district court within the time and in the manner and under the procedure provided in chapter 605; provided that if the department be the appellant, no bond upon such appeal shall be required.

[R L s 1972; 1907 c 167 s 2; 1961 c 393 s 1; 1969 c 646 s 1; 1971 c 25 s 67] (4651)

**216.26 DISMISSAL IN CERTAIN CASES; PROCEDURE.** When in any proceedings pending before it relating to or involving the reasonableness of rates, fares, charges, or classifications, the department shall decide that it has not jurisdiction for the reason that the traffic covered by such rates, fares, charges, and classifications is interstate commerce, it shall make an order dismissing the proceeding, stating therein the ground of such dismissal, which order may be appealed from in like manner as other appealable orders of the department.

If in any such proceeding one of the commissioners shall dissent from the order of dismissal, the question of its jurisdiction shall be certified to the district court of a county to which an appeal might be taken and thereupon the department shall notify all parties to the proceedings of such certification, stating the county and date thereof.

[R L s 1973; 1971 c 25 s 67] (4652)

**216.27 FILING PAPERS; EFFECT.** When in any such case an appeal is taken or such question certified the department shall forthwith file with the clerk of the proper district court all papers, pleadings, evidence, and orders in the proceeding and thereupon such court shall have full jurisdiction to hear and determine the question of the jurisdiction of the department in reference to the matter appealed from or certified. Such proceeding may be brought on for hearing by either party on ten days' notice, either at a term or in vacation, and shall be heard upon the evidence taken before the department and such further evidence as may be offered by either party. If the order of the department is reversed, upon filing

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a copy of the order of reversal with the department, it shall forthwith proceed to determine the reasonableness of such rates, fares, charges, and classification on the merits.

[*R L s 1974; 1971 c 25 s 67*] (4653)

**216.28** [Repealed, 1967 c 864 s 10]

**216.29** [Repealed, 1967 c 864 s 10]

**216.30** [Repealed, 1967 c 864 s 10]

**216.31** [Repealed, 1967 c 864 s 10]

**216.32** [Repealed, 1967 c 864 s 10]

**216.33** [Repealed, 1967 c 864 s 10]

**216.34-216.42** [Repealed, Ex1957 c 10 s 8]

**216.43-216.45** [Repealed, 1957 c 647 s 2; Ex1957 c 10 s 8]

**216.46-216.62** [Repealed, Ex1957 c 10 s 8]

**216.63** [Repealed, 1949 c 440 s 7; Ex1957 c 10 s 8]

**216.64** [Repealed, 1949 c 440 s 7; Ex1957 c 10 s 8]

**216.65** [Repealed, 1967 c 864 s 10]

**216.66** [Repealed, Ex1957 c 10 s 8]

**216.67** [Repealed, 1967 c 864 s 10]

**216.68** [Repealed, Ex1957 c 10 s 8]