

# MINNESOTA STATUTES 1977 SUPPLEMENT

## DEPARTMENT OF PUBLIC SERVICE

216A.05

### 216.271 Appeal denial of hearing.

Any party who requests a hearing under this chapter and is denied, may appeal the denial to district court. If the court determines that a hearing is required, it shall order the commission to hold the hearing as a contested case.

[ 1977 c 253 s 2 ]

## CHAPTER 216A. DEPARTMENT OF PUBLIC SERVICE, ORGANIZATION

Sec.  
216A.02 Definitions.  
216A.03 Commission.

Sec.  
216A.05 Functions and powers.  
216A.06 Director.  
216A.07 Director; powers and duties.

### 216A.02 Definitions.

Subdivision 1. For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. "Legislative function" means the establishment and promulgation of all rules, orders and directives of general or particular applicability, governing the conduct of the regulated persons or businesses, together with such investigative procedures as are incident thereto and all other valid acts and procedures which are historically or functionally legislative in character.

Subd. 3. "Administrative function" means all duties and procedures concerning the execution and enforcement of the laws, rules, orders, directives, duties and obligations imposed for the control and government of the persons or businesses regulated, together with investigative activities incident thereto and procedures inherently administrative or executive in character.

Subd. 4. "Quasi-judicial function" means the promulgation of all orders and directives of particular applicability governing the conduct of the regulated persons or businesses, together with procedures inherently judicial.

[ 1977 c 364 s 1 ]

### 216A.03 Commission.

[For text of subds 1 to 4, see M.S.1976]

Subd. 5. **Quorum.** A majority of the commission shall constitute a quorum, and the act or decision of a majority of commissioners present, if at least a quorum is present, shall be the act or decision of the commission. If a vacancy exists on the commission a majority of the remaining commissioners constitutes a quorum.

[ 1977 c 364 s 2 ]

### 216A.05 Functions and powers.

Subdivision 1. **Legislative and quasi-judicial nature of functions.** The functions of the commission shall be legislative and quasi-judicial in nature. It may make such investigations and determinations, hold such hearings, prescribe such rules and issue such orders with respect to the control and conduct of the businesses coming within its jurisdiction as the legislature itself might make but only as it shall from time to time authorize. It may adjudicate all proceedings brought before it in which the violation of any law or rule administered by the department is alleged.

[For text of subds 2 to 4, see M.S.1976]

Subd. 5. **Hearings upon petitions.** With respect to those matters within its jurisdiction the commission shall receive, hear and determine within six months all petitions filed with it in accordance with the procedures established by law and may investigate, hold hearings and make determinations upon its own motion to the same extent, and in every instance, in which it may do so upon petition. Upon

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receiving petitions filed pursuant to sections 221.061, 221.081, 221.121, subdivision 1, 221.151, 221.296, and 221.55, the commission shall give notice of the filing of the petition to representatives of associations or other interested groups or persons who have registered their names with the director of the department for that purpose and to whomever he deems to be interested in the petition. The commission may grant or deny the request of the petition 30 days after notice of the filing has been fully given. If the commission receives a written objection and a notice of intent to appear at a hearing to object to the petition from any person within 20 days of the notice having been fully given, the request of the petition shall be granted or denied only after a contested case hearing has been conducted on the petition, unless the objection is withdrawn prior to the hearing. The commission may elect to hold a contested case hearing if no objections to the petition are received. If a timely objection is not received, or if received and withdrawn, and the request of the petition is denied without hearing, the petitioner may request within 30 days of receiving the notice of denial, and shall be granted, a contested case hearing on the petition.

[For text of subd 6, see M.S.1976]

[ 1977 c 346 s 11; 1977 c 364 s 3 ]

### 216A.06 Director.

Subdivision 1. **Establishment of office, appointment.** The office of director of the department of public service is hereby established. He shall be appointed by the governor under the provisions of section 15.06.

Subd. 2. [ Repealed, 1977 c 305 s 46 ]

[ 1977 c 305 s 27 ]

### 216A.07 Director; powers and duties.

The director shall be the executive and administrative head of the public service department. He shall have and possess all the rights and powers and perform all the duties relating to the administrative function of the department as set forth in this chapter. The director may:

(1) Prepare all forms or blanks for the purpose of obtaining information which he may deem necessary or useful in the proper exercise of his authority and duties in connection with regulated businesses;

(2) Prescribe the time and manner within which forms or blanks shall be filed with the department;

(3) Inspect at all reasonable times, and copy the books, records, memoranda and correspondence or other documents and records of any person relating to any regulated business; and

(4) Cause the deposition to be taken of any person concerning the business and affairs of any business regulated by the department. Information sought through said deposition shall be for a lawfully authorized purpose and shall be relevant and material to the investigation or hearing before the commission. Information obtained from said deposition shall be used by the department only for a lawfully authorized purpose and pursuant to powers and responsibilities conferred upon the department. Said deposition is to be taken in the manner prescribed by law for taking depositions in civil actions in the district court.

[ 1977 c 364 s 4 ]

## CHAPTER 216B. PUBLIC UTILITIES

Sec.  
216B.16 Rate changes; procedure; hearing.  
216B.40 Exclusive service rights.  
216B.421 Homestead; option of electric service.  
[New]

Sec.  
216B.53 Suspension of commission orders.

### 216B.16 Rate changes; procedure; hearing.

Subdivision 1. Unless the commission otherwise orders, no public utility shall

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receiving petitions filed pursuant to sections 221.061, 221.081, 221.121, subdivision 1, 221.151, 221.296, and 221.55, the commission shall give notice of the filing of the petition to representatives of associations or other interested groups or persons who have registered their names with the director of the department for that purpose and to whomever he deems to be interested in the petition. The commission may grant or deny the request of the petition 30 days after notice of the filing has been fully given. If the commission receives a written objection and a notice of intent to appear at a hearing to object to the petition from any person within 20 days of the notice having been fully given, the request of the petition shall be granted or denied only after a contested case hearing has been conducted on the petition, unless the objection is withdrawn prior to the hearing. The commission may elect to hold a contested case hearing if no objections to the petition are received. If a timely objection is not received, or if received and withdrawn, and the request of the petition is denied without hearing, the petitioner may request within 30 days of receiving the notice of denial, and shall be granted, a contested case hearing on the petition.

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## CHAPTER 216B. PUBLIC UTILITIES

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Sec.  
216B.53 Suspension of commission orders.

### 216B.16 Rate changes; procedure; hearing.

Subdivision 1. Unless the commission otherwise orders, no public utility shall

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change any rate which has been duly established under this chapter, except after 90 days notice to the commission, which notice shall include statements of facts, expert opinions, substantiating documents, and exhibits, supporting the change requested, and further shall state the change proposed to be made in the rates then in force, and the time when the modified rates will go into effect. The filing utility shall give written notice, as approved by the commission, of the proposed change to the governing body of each municipality and county in the area affected. All proposed changes shall be shown by filing new schedules or shall be plainly indicated upon schedules on file and in force at the time.

Subd. 2. Whenever there is filed with the commission any schedule modifying or resulting in a change in any rates then in force, together with the filed statements of facts, expert opinions, substantiating documents, and exhibits, supporting the changes requested, the commission shall upon complaint or may upon its own motion, upon reasonable notice to the governing bodies of municipalities affected, conduct a hearing to determine whether the rates are unjust or unreasonable. Pending the hearing and the decision thereon, the commission may suspend the operation of the schedule by filing with the schedule of rates and delivering to the affected utility a statement in writing of its reasons for the suspension, at any time before the rates become effective. The suspension shall not be for a longer period than 90 days beyond the time when the schedule of rates would otherwise go into effect unless the commission finds that a longer time will be required. If a longer time is required the commission may further extend the period for not to exceed a total of nine months. If the commission does not make a final determination concerning any schedule of rates within a period of nine months beyond the time when the schedule of rates would otherwise go into effect, under subdivision 1, the schedule shall be deemed to have been approved by the commission. For the purposes of this subdivision, "final determination" means the initial decision of the commission and not any order which may be entered by the commission in response to a petition for rehearing or other further relief. The commission may further suspend rates until it determines all such petitions.

[For text of subds 3 to 5, see M.S.1976]

Subd. 6. The commission, in the exercise of its powers under this chapter to determine just and reasonable rates for public utilities, shall give due consideration to the public need for adequate, efficient, and reasonable service and to the need of the public utility for revenue sufficient to enable it to meet the cost of furnishing the service, including adequate provision for depreciation of its utility property used and useful in rendering service to the public, and to earn a fair and reasonable return upon the investment in such property. In determining the rate base upon which the utility is to be allowed to earn a fair rate of return, the commission shall give due consideration to evidence of the cost of the property when first devoted to public use, to prudent acquisition cost to the public utility less appropriate depreciation on each, to construction work in progress, to offsets in the nature of capital provided by sources other than the investors, and to other expenses of a capital nature. For purposes of determining rate base, the commission shall consider the original cost of utility property included in the base and shall make no allowance for its estimated current replacement value.

Subd. 6a. To the extent that construction work in progress is included in the rate base, the commission shall determine in its discretion whether and to what extent the income used in determining the actual return on the public utility property shall include an allowance for funds used during construction, considering the following factors:

(a) The magnitude of the construction work in progress as a percentage of the net investment rate base;

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- (b) The impact on cash flow and the utility's capital costs;
- (c) The effect on consumer rates;
- (d) Whether it confers a present benefit upon an identifiable class or classes of customers; and
- (e) Whether it is of a short term nature or will be imminently useful in the provision of utility service.

[For text of subd 7, see M.S.1976]

Subd. 8. The commission shall disapprove the portion of any rate which makes an allowance directly or indirectly for expenses incurred by a public utility to provide a public advertisement which:

- (a) Is designed to influence or has the effect of influencing public attitudes towards legislation or proposed legislation, or toward a rule, proposed rule, authorization or proposed authorization of the public service commission or other agency of government responsible for regulating a public utility;
- (b) Is designed to justify or otherwise support or defend a rate, proposed rate, practice or proposed practice of a public utility;
- (c) Is designed primarily to promote consumption of the services of the utility; or
- (d) Is designed primarily to promote good will for the public utility or improve the utility's public image.

The commission may approve a rate which makes an allowance for expenses incurred by a public utility to disseminate information which:

- (a) Is designed to encourage conservation of energy supplies;
- (b) Is designed to promote safety; or
- (c) Is designed to inform and educate customers as to financial services made available to them by the public utility.

The commission shall not withhold approval of a rate because it makes an allowance for expenses incurred by the utility to disseminate information about corporate affairs to its owners.

Subd. 9. The commission shall allow as operating expenses only those charitable contributions which the commission deems prudent and which qualify under section 290.21, subdivision 3, clause (b). Only 50 percent of the qualified contributions shall be allowed as operating expenses.

[ 1977 c 359 s 1-6; 1977 c 364 s 5 ]

### 216B.40 Exclusive service rights.

Except as provided in sections 216B.42 and 216B.421, each electric utility shall have the exclusive right to provide electric service at retail to each and every present and future customer in its assigned service area and no electric utility shall render or extend electric service at retail within the assigned service area of another electric utility unless the electric utility consents thereto in writing; provided

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that any electric utility may extend its facilities through the assigned service area of another electric utility if the extension is necessary to facilitate the electric utility connecting its facilities or customers within its own assigned service area.

[ 1977 c 99 s 1 ]

### 216B.421 Homestead; option of electric service.

Subdivision 1. **Multiple service areas; customer election.** Notwithstanding the establishment of assigned service areas for electric utilities provided for in section 216B.39, when a customer requires electric service for buildings or other structures located on land constituting his homestead and the buildings or structures are located within more than one assigned service area, the customer may elect to contract for or purchase his entire electric service requirements from either of the electric utilities providing him with electric service. An electric utility may extend its facilities through the assigned service area of another electric utility if the extension is necessary to facilitate the electric utility connecting a customer who elects to purchase or contract for service from it pursuant to this section.

Subd. 2. **Restriction.** The provisions of subdivision 1 shall only apply to the provision of electric service to buildings and other structures that were under construction on April 11, 1974.

[ 1977 c 99 s 2 ]

### 216B.53 Suspension of commission orders.

The pendency of proceedings on appeal shall not of itself stay or suspend the operation of the order of the commission unless the commission so orders, but during the pendency of the proceedings the court in its discretion may stay or suspend, in whole or in part, the operation of the commission's order on terms it deems just, and in accordance with the practice of courts exercising equity jurisdiction. No stay shall be granted by the court without notice to the parties and opportunity to be heard. Any party shall have the right to secure from the court in which an appeal of an order of the commission is sought an order suspending or staying the operation of an order of the commission, pending an appeal of the order, but no commission order relating to rates or rules shall be stayed or suspended absent a finding that great or irreparable damage would otherwise result to the party seeking the stay or suspension, and any order staying or suspending a commission order shall specify the nature of the damage.

In case the order of the commission is stayed or suspended, the court shall require a bond with good and sufficient surety, conditioned that the public utility petitioning for review shall answer for all damages caused by the delay in enforcing the order of the commission, and for all compensation for whatever sums for transmission or service any person shall be compelled to pay pending review proceedings in excess of the sum the person or corporation would have been compelled to pay had the commission's order not been stayed or suspended. The court, may, in addition or in lieu of the bond require other further security for the payment of such excess damages or charges it deems proper.

[ 1977 c 364 s 6 ]

## CHAPTER 218. COMMON CARRIERS, RAIL TRANSPORTATION

Sec.  
218.021 Common carriers, unlawful acts.

Sec.  
218.041 Duties of public service commission and commissioner.

### 218.021 Common carriers, unlawful acts.

[For text of subd 1, see M.S.1976]

Subd. 2. Nothing herein shall prohibit carriage, storage or handling of property free or at reduced rates for the United States, the state, or any governmental subdivision thereof, ministers of religion, sisters of charity, missionaries, students of educational institutions or inmates of charitable institutions, or for charitable pur-