

CHAPTER 7830
PUBLIC UTILITIES COMMISSION
PRACTICE AND PROCEDURE

7830.0100	DEFINITIONS.	7830.2500	AMENDMENTS.
7830.0200	SCOPE AND CONSTRUCTION.	7830.2600	SERVICE.
	COMMENCEMENT OF PROCEEDING	7830.2700	CONTINUANCES AND
7830.0300	COMPLAINT PETITION.		EXTENSION OF TIME.
7830.0400	TITLE.	7830.2800	DOCKETS.
7830.0500	JOINDER OF SEVERAL PERSONS	7830.2900	TRADE SECRET AND
	IN ONE PLEADING.		PROPRIETARY INFORMATION.
	PARTIES		HEARING NOTICE AND FORMALITIES
7830.0600	PETITION TO INTERVENE.	7830.3000	HEARINGS.
7830.0700	PARTICIPANTS.	7830.3100	WRITTEN NOTICE.
7830.0800	PROTESTANTS AND NOTICES OF	7830.3200	NOTICE REQUIRED WHEN
	INTENT TO PROTEST IN MOTOR		UTILITY CHANGES RATES.
	CARRIER PROCEEDINGS.		PREHEARING CONFERENCES
	PLEADINGS	7830.3300	PREHEARING CONFERENCES
7830.0900	TYPES OF PLEADINGS.		AND SETTLEMENT
7830.1000	FORM OF INFORMAL		CONFERENCES.
	COMPLAINT.	7830.3400	CONFERENCE RECOMMENDED
7830.1100	RESPONSE TO INFORMAL		BY PRESIDING OFFICER.
	COMPLAINT.	7830.3500	STIPULATION.
7830.1200	FILING.		OTHER FORMAL HEARING PROCEDURES;
7830.1300	FORM OF FORMAL COMPLAINT.		POSTHEARING CONSIDERATIONS
7830.1400	ALLEGATIONS; JOINDER OF	7830.3600	WITNESSES.
	CAUSES.	7830.3700	BRIEFS AND CLOSING
7830.1500	TARIFF REFERENCE.		ARGUMENT.
7830.1600	PREFERENCE OR PREJUDICE TO	7830.3800	DECISIONS AND ORDERS.
	BE SPECIFIED.	7830.3900	EXCEPTIONS.
7830.1700	SUBSCRIPTION AND	7830.4000	PETITION FOR FURTHER
	VERIFICATION.		HEARING.
7830.1800	SUPPLEMENTAL COMPLAINT.	7830.4100	PETITION FOR REHEARING,
7830.1900	ANSWER TO FORMAL		AMENDMENT, VACATION,
	COMPLAINT.		RECONSIDERATION,
7830.2000	REPLY.		REARGUMENT.
7830.2100	PETITION.	7830.4200	AMENDMENT OF EFFECTIVE
7830.2200	PETITION TO INTERVENE.		DATE OF ORDER OR DECISION.
7830.2300	ANSWER TO PETITION TO	7830.4300	SECOND PETITION UPON SAME
	INTERVENE.		GROUND NOT ENTERTAINED.
7830.2400	SCOPE OF INTERVENOR'S	7830.4400	VARIANCES.
	PARTICIPATION.		

7830.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms as used in the Public Utilities Commission's rules of practice have the meanings given them in this part.

Subp. 2. **Commission.** "Commission" means the Minnesota Public Utilities Commission.

Subp. 3. **Complainant.** "Complainant" means any person who complains formally or informally of any commission rule or general order, or of any action or failure to act (past, present, or, in the opinion of the commission, reasonably certain to occur) in violation, or claimed violation, of any law governing the activities of the commission or under which the commission has jurisdiction, or of any commission rule or order.

Subp. 4. **Department.** "Department" means the Minnesota Department of Public Service which includes the Minnesota Public Utilities Commission as its quasi-legislative branch.

Subp. 5. **Intervenor.** "Intervenor" means any person permitted to intervene as a party in any proceeding pursuant to this chapter.

Subp. 6. **Motor carrier.** "Motor carrier" means a person engaged in the business of for-hire transportation as defined in Minnesota Statutes, chapter 221 and includes local cartage carriers.

Subp. 7. **Participant.** "Participant" means a person appearing at a proceeding pursuant to part 7830.0700 to present its views without becoming a party.

Subp. 8. **Party.** "Party" means a person by or against whom a proceeding

before the commission is commenced; a person permitted to intervene in a proceeding pursuant to this chapter; or, a person admitted pursuant to this chapter as a protestant in a motor carrier proceeding. Parties to proceedings shall be styled, "petitioners," "complainants," "intervenor(s)," "respondents," or "protestants" according to the nature of the proceeding and the relationship of the parties thereto. Parties to a proceeding may present evidence, cross-examine witnesses, file briefs, shall receive notification of all scheduling actions relating to the proceeding, and shall receive copies of all pleadings and other documents relating to the proceedings.

Subp. 9. Person. "Person" means a natural person, corporation, municipal corporation, public corporation, body politic, government agency, association, partnership, receiver, joint venture, trustee at common law or statutory trust guardian or executor.

Subp. 10. Petitioner. "Petitioner" means any person who requests commission permission, authorization, or approval; or any person who notifies the commission of a proposed change in gas or electric rates.

Subp. 11. Presiding officer(s). "Presiding officer(s)" means the commissioner(s), and/or, where appropriate, the hearing examiner(s) or staff member(s) presiding at a hearing.

Subp. 12. Proceeding. "Proceeding" means any undertaking of the commission, on its own motion or otherwise, formal or informal, whereby it seeks to resolve any questions or issue presented to it in a complaint, petition, or notice of proposed changes in gas or electric rates.

Subp. 13. 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. 14. Protestant. "Protestant" means a party objecting in a motor carrier proceeding.

Subp. 15. Respondent. "Respondent" means one against whom a complaint is filed or against whom an investigation, order to show cause, or other proceeding on commission motion is addressed.

Subp. 16. Utility. "Utility" means any gas, electric, or telephone company subject to the jurisdiction of the commission.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.0200 SCOPE AND CONSTRUCTION.

This chapter governs practice and procedure in all matters before the commission. This chapter shall be liberally construed to secure just, economical, and expeditious determination of the issues presented. This chapter shall be construed by the commission in light of its statutory responsibilities and its obligation to act in the public interest. Except as otherwise indicated, this chapter shall apply to all businesses subject to the regulatory jurisdiction of the commission. Any conflict between this chapter and statutory provisions must be resolved in accordance with the appropriate statute.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

COMMENCEMENT OF PROCEEDING

7830.0300 COMPLAINT PETITION.

A "proceeding," as the term is used in this chapter, may be initiated by any of the following: a complaint, which may be formal or informal, alleging a violation of any provision of law, or any rule or requirement made pursuant to a power granted by law; a petition for: the granting of any license, permit, certificate, or privilege, authority to grant or withhold which is specifically vested in the commission; or an order of the commission granting relief under or from any provision of law, rule, or requirement made pursuant to power vested by any

law, or approving any submission required or permitted by law to be made by the commission, and motion of the commission.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.0400 TITLE.

A person instituting a proceeding shall be styled the "complainant" if the proceeding is by complaint and "petitioner" in all other cases. A person against whom a complaint is brought shall be styled "respondent." In all other proceedings the matter shall be entitled "In the Matter of _____," followed by a brief description of the subject matter to which the same relates. No proceeding shall be dismissed, impaired, or prejudiced because incorrectly entitled, or the parties thereto incorrectly styled; but opportunity shall be given in such cases to correct the error by amendment, giving due consideration to any person who may have been misled by the error.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.0500 JOINDER OF SEVERAL PERSONS IN ONE PLEADING.

Two or more persons may join in one pleading when they desire to make substantially the same allegation, subject to the power of the commission to order separate hearings upon its own motion or on the motion of any party to the proceeding.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

PARTIES

7830.0600 PETITION TO INTERVENE.

Complainants, petitioners, and respondents specifically named as such in any pleading are parties to the proceeding. No other person shall become a party to the proceeding except by leave of the presiding officer(s) upon petition to intervene under parts 7830.2200 to 7830.2400 and a showing that he is specifically deemed by statute to be interested in the particular type of matter involved, or that he is specifically declared by statute to be an interested party to the particular type of proceeding involved, or that by the outcome of the proceeding he will be bound and affected either favorably or adversely with respect to an asserted interest peculiar to the person as distinguished from an interest common to the public or other taxpayers in general; such person shall be styled "intervenor." In addition any person admitted pursuant to this chapter as a protestant in a motor carrier proceeding shall be considered a party to such proceeding and shall be styled "protestant."

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.0700 PARTICIPANTS.

The presiding officer(s) may hear the views or evidence of any person or organization as to the subject matter, but no person shall become or shall be deemed to have become a party to the proceeding by reason of such participation in the hearing. Any person may enter an appearance in any proceeding, but no person shall become or shall be deemed to have become a party to the proceeding by reason of having entered an appearance therein.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.0800 PROTESTANTS AND NOTICES OF INTENT TO PROTEST IN MOTOR CARRIER PROCEEDINGS.

A motor carrier desiring to oppose a motor carrier petition shall file with the commission a written notice of intent to protest signed by the carrier and/or its attorney, if any. The notice of intent to protest shall be filed no later than ten days prior to the scheduled hearing date as published in the department's notice of public hearings and decisions. The notice of intent to protest shall include proof

MINNESOTA RULES 1989

7549

PRACTICE AND PROCEDURE 7830.1200

of service thereof on the petitioner or its attorney. A motor carrier who files a timely notice of intent to protest shall be deemed a party to the proceeding without filing a petition to intervene pursuant to parts 7830.2200 to 7830.2400.

A motor carrier desiring to participate in the proceeding who has not filed a timely notice of intent to protest as required by this part shall not be admitted as a party to the proceeding, except for good cause shown.

Any notice of intent to protest filed pursuant to this part shall set forth specifically the grounds upon which the protest will be made and shall contain a concise statement of the interest of the protestant in the proceeding.

If a timely notice of intent to protest is filed but protestant fails without good cause to appear at the hearing, the presiding officer(s) may disregard the notice of intent to protest.

A nonmotor carrier desiring to participate as a party in a motor carrier hearing shall file a formal petition for leave to intervene pursuant to parts 7830.2200 to 7830.2400 including proof of service thereof on the petitioner or its attorney.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

PLEADINGS

7830.0900 TYPES OF PLEADINGS.

The pleadings before the commission shall be informal complaint, formal complaint, answer, reply, petition, notice of intent to protest, petition to intervene, and answer to petition to intervene, including amendments or supplements to any of the foregoing.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.1000 FORM OF INFORMAL COMPLAINT.

An informal complaint may be made by letter or other writing. In an emergency situation the department staff shall accept an informal complaint by telephone and shall prepare and file a memorandum concerning the call. No form of informal complaint is prescribed, but in substance the informal complaint must contain the name and address of the complainant, the name or names of the carrier, person, or corporation against whom complaint is made, a statement that some certain statute of the state of Minnesota or rule of the commission has been violated by such carrier, person, or corporation, indicating when, where, and how, and a request for affirmative relief. Informal complaints should be accompanied by copies in sufficient number to enable the commission to transmit one to each carrier, person, or corporation named. They may be accompanied by supporting affidavits and papers.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.1100 RESPONSE TO INFORMAL COMPLAINT.

Responses to informal complaints may be submitted to the commission by respondents named therein without proof of service upon the complainant and without verifications unless such complaint is verified. The commission shall assure that the complainant is notified of the substance of the response.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.1200 FILING.

Informal complaints will be assigned numbers on the informal docket in the order of their receipt. Copies of the informal complaint and all writings relating to it shall be filed under the name of the respondent. Matters thus presented, if their nature warrants it, will be taken up by correspondence with the persons affected in an endeavor to bring about resolution of the complaint without formal hearing.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.1300 FORM OF FORMAL COMPLAINT.

A formal complaint must state the names and addresses of all complainants and respondents without abbreviation, and the name and address of the attorney for complainant, if there be one. Formal complaints will be filed as received and assigned numbers on the formal docket.

Statutory Authority: MS s 216A.05 subd 1; 216A.07 subd 5

7830.1400 ALLEGATIONS; JOINDER OF CAUSES.

Formal complaints should be drawn so as to advise fully and completely the respondents and the presiding officer(s) which provisions of the statutes of the state of Minnesota, or the rules of the commission, authorize the complaint and have been, or are, allegedly violated by a continuance of such acts or omissions, and should set forth briefly and in plain language the facts claimed to constitute such violation and the relief sought. Two or more grounds of complaint involving the same principle, subject, or state of facts may be included in one complaint, but should be separately stated and the paragraphs numbered. In case violation of two or more sections of the statutes are alleged, the facts claimed to constitute violation of one section should be stated separately from those in respect to any other section or sections wherever that can be done by reference, or otherwise, without undue repetition.

Statutory Authority: MS s 216A.05 subd 1; 216A.07 subd 5

7830.1500 TARIFF REFERENCE.

Complaints regarding rates, fares, charges, classifications, rules, regulations, or practices should be specific with reference to the tariff on file with the Minnesota Public Utilities Commission whenever practicable.

Statutory Authority: MS s 216A.05 subd 1; 216A.07 subd 5

7830.1600 PREFERENCE OR PREJUDICE TO BE SPECIFIED.

If some undue or reasonable preference or advantage, or undue or unreasonable prejudice, disadvantage, or discrimination, in violation of the statutes of the state of Minnesota, is alleged, then the particular person, company, firm, corporation, locality, or description of traffic affected thereby, and the particular preference, advantage, prejudice, disadvantage, or discrimination relied upon as constituting such violation, should be clearly specified.

Statutory Authority: MS s 216A.05 subd 1; 216A.07 subd 5

7830.1700 SUBSCRIPTION AND VERIFICATION.

Every formal complaint should be personally subscribed by the complainant or by a person authorized to appear for complainant under part 7830.3000. In addition, the facts alleged must be verified under oath by a complainant or by a partner, officer, agent, or attorney of complainant. However, if the verification be by an agent or attorney, the reason it is not made by a complainant, partner, or officer must be stated.

Statutory Authority: MS s 216A.05 subd 1; 216A.07 subd 5

7830.1800 SUPPLEMENTAL COMPLAINT.

Supplemental complaints setting forth any causes of action alleged to have accrued in favor of the complainants and against the respondents since the filing of the original complaint may be served by the complainants on the respondents at any time prior to the date set for hearing of the original complaint, and upon leave granted, may be filed as provided for original complaints, and will be disposed of in the same proceeding, if practicable.

Statutory Authority: MS s 216A.05 subd 1; 216A.07 subd 5

MINNESOTA RULES 1989

7551

PRACTICE AND PROCEDURE 7830.2300

7830.1900 ANSWER TO FORMAL COMPLAINT.

Subpart 1. **Service.** Answers to a formal complaint must be filed with the commission, with proof of service upon complaint, within 20 days after the day on which the complainant was served, exclusive of the day of service. Any respondent failing to serve and file an answer to a formal complaint within such period will be deemed by the presiding officer(s) to have denied the same, and issue as to such respondent will be thereby joined.

Subp. 2. **Form and style.** Answers to a formal complaint should be drawn so as to fully and completely advise the parties and the presiding officer(s) of the nature of the defense, state that respondent has granted the relief demanded if such is the case, and should admit or deny specifically and in detail each material allegation of the pleading answered. Denial of an alleged discrimination or that an alleged preference or prejudice is undue or unreasonable should state fully the grounds relied upon in making such denial.

Subp. 3. **Subscription and verification.** Such answers shall be subscribed by the respondent or his attorney and verified.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.2000 REPLY.

If the answer to a complaint alleges the granting of the relief demanded, the complainant shall within 20 days file with the commission, with proof of service upon respondent, a reply admitting or denying such allegation. If he fails to reply or admits the allegation, the proceeding shall be dismissed.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.2100 PETITION.

Except as otherwise prescribed by the commission or required by statute, a petition shall contain the name and address of petitioner without abbreviation and the name and address of the attorney for petitioner, if there be one. A petition shall set forth a statement of facts and the grounds upon which relief or authority is sought, the statute or statutes under which the proceeding is brought or which are otherwise applicable, and the relief or authority sought by petitioner.

The petition must be subscribed in the same manner as a formal complaint; but unless prescribed by the commission or required by statute the petition need not be verified. Only the original need be filed with the commission; but additional copies shall be furnished to the commission upon its request.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.2200 PETITION TO INTERVENE.

Any person desiring to be made a party to a pending proceeding may petition for leave to intervene therein. The petition with proof of service shall be filed with the commission at least ten days prior to the date set for hearing, but not thereafter except for good cause shown.

A petition to intervene shall allege the grounds for the proposed intervention and the specific interest of the petitioner in the proceeding which qualifies him as a party under parts 7830.0600 and 7830.0700. The allegations shall be reasonably pertinent to the issues involved in the principal pleadings, and shall not unduly broaden the issues. The petition must be subscribed in the same manner as a formal complaint. It shall be served upon all parties to the proceeding, and the original and eight additional copies filed with the commission secretary.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.2300 ANSWER TO PETITION TO INTERVENE.

Parties to the proceeding may file answers to petitions to intervene with the commission with proof of service upon petitioner in intervention prior to the

hearing, or parties may answer on the record at the opening of the hearing if less than ten days have expired from the date of service upon them of the petition to intervene. Thereafter, the presiding officer(s) shall grant or deny the petition to intervene stating his (their) reasons therefor. If permission is granted, the petitioner thereby becomes an intervenor and a party to the proceedings. Answers to petitions to intervene should admit or deny the interest of the petitioner in intervention, and if the intervention is objected to by a party to the proceeding, the grounds for the objection should be stated in the answer. The answers need not be verified unless the petition to intervene has been verified. Failure to file an answer to a petition to intervene or to make oral objection to the petition shall be deemed to be consent to such intervention, but the presiding officer(s) may, on consideration of all the files and records of the proceeding, grant or deny the petition to intervene whether or not answers thereto have been filed or oral objections made.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.2400 SCOPE OF INTERVENOR'S PARTICIPATION.

The participation of a party granted leave to intervene will be limited to those matters raised in its petition to intervene unless for good cause shown on the record, the presiding officer(s) grant(s) an intervenor the right to participate more fully than set forth in its petition to intervene. Where there are two or more intervenors having substantially like interests and positions, the presiding officer(s) may, in order to expedite the hearing, arrange appropriate limitations on the number of attorneys who will be permitted to cross-examine and make and argue motions and objections on behalf of such intervenors.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.2500 AMENDMENTS.

Subpart 1. Amendments of pleadings. Formal complaints, answers (except answers to informal complaints), and replies may be amended at any time before the original time for answering or replying has expired, and thereafter only by order of the presiding officer(s) for good cause shown upon motion and upon notice to all parties to the proceeding. Amendments to petitions initiating any proceeding which do not enlarge in any respect the authority or relief sought or otherwise materially alter the petition, and amendments to notices of intent to protest and petitions to intervene, may be made without leave of the presiding officer(s) prior to the day of hearing. After the commencement of the hearing such petitions, notices of intent to protest, or petitions to intervene may be amended only by order of the presiding officer(s) for good cause shown upon motion.

Subp. 2. Answer to amended or supplemental complaint, or to petition to intervene. Rules as to the form, content, subscription, verification, and time of filing of answers to formal complaints and petitions to intervene shall apply to answers to amended or supplemental complaints and answers to amended petitions to intervene.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.2600 SERVICE.

When filing a pleading or other document initiating or relating to a proceeding pending before the commission, the following rules of service shall be adhered to.

Service of all documents shall be made upon other parties in proceedings before the commission by deposit in the first class mail or by delivery in person, unless otherwise ordered by the presiding officer(s) or unless otherwise specifically provided by law. When any party has appeared by attorney, service upon such attorney shall be deemed service upon the party. The date of service shall be the day when the document served is deposited in the mail or is delivered in person, as the case may be, unless otherwise provided by the presiding officer(s).

MINNESOTA RULES 1989

7553

PRACTICE AND PROCEDURE 7830.3000

When a document is served, the person serving the paper shall file with the commission proof of service, or acceptance of service by the person served or his attorney, annexed to the copies of documents served.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.2700 CONTINUANCES AND EXTENSION OF TIME.

For good cause shown, continuances and extensions of time will be granted or denied by the presiding officer(s) in his (their) discretion.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.2800 DOCKETS.

Unless otherwise specified in this chapter, an original and eight copies of all pleadings, briefs, written arguments, notices, written motions, and all papers in any manner relating to or affecting any power or jurisdiction of the commission or which are intended for the information of or action by the commission must be first filed in the office of the secretary thereof; and thereafter a copy shall be preserved therein as a public record. The secretary, upon the filing with the commission of any matter within the jurisdiction of the commission, will enter such matter on the docket and give it a consecutive number therein.

The commission will establish and maintain in the office of the secretary the necessary dockets which shall be open to public inspection; but any person desiring to inspect any record of the commission must first make application to the secretary of the commission.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.2900 TRADE SECRET AND PROPRIETARY INFORMATION.

Nothing in this chapter shall require the revealing of proprietary information or trade secrets or processes in any document filed with the commission under this chapter. When a document is filed with proprietary information or trade secret portions omitted therefrom, the person filing such a document shall bring the deletions to the attention of the presiding officer(s). The presiding officer(s) may require any omitted information to be submitted.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

HEARING NOTICE AND FORMALITIES

7830.3000 HEARINGS.

Subpart 1. Appearances of attorneys. All parties, except individuals appearing on their own behalf, shall be represented by counsel. Participants, as defined in part 7830.0100, subpart 15, need not be represented by counsel. Persons holding specific authority to practice before the commission in their areas of expertise, may continue to do within the express limits of such authority.

Subp. 2. Presiding officers. Each formal hearing before the commission shall be presided over by one or more commissioners and/or, where appropriate, by one or more designated hearing examiners, or members of the staff, and the person or persons presiding shall be known as the presiding officer(s). The presiding officer(s) shall be in complete charge of the proceedings and shall rule on all matters of evidence, continuances, motions, or other matters involving the case from the time the proceedings have been assigned to the presiding officer(s).

Subp. 3. Discretionary hearing on informal complaint. Whenever it appears to the commission upon such investigation as it deems appropriate that a person filing an informal complaint is entitled to relief, it may order a hearing upon the informal complaint. It may at any time order a hearing on any matter on the informal docket or on any other matter where a hearing is discretionary with the commission.

Subp. 4. Hearing on formal complaint and other required hearings. When

issue has been joined upon formal complaint by service of answer or by failure of respondent to answer, and proof thereof has been filed, and in every other contested case, and in every case where a hearing is required by law, the commission shall assign a time and place of hearing pursuant to parts 7830.3100 and 7830.3200.

Subp. 5. Examination of witnesses, cross-examination, and rebuttal. Witnesses may be examined orally before the presiding officer(s), or, where deemed appropriate, direct evidence may be taken by written statement prepared in advance of the hearing. In such cases the author of the written statement will be made available for cross-examination. Every party to a contested case shall have rights to cross-examine witnesses and to submit rebuttal evidence.

Subp. 6. Exhibits. Unless the presiding officer(s) shall otherwise direct, exhibits offered to the commission at any hearing or conference in a contested case shall be eight in number with additional copies furnished to parties of record.

Subp. 7. Order of procedure. Unless otherwise directed, the following order of procedure shall apply to all hearings before the commission: At hearings on informal complaints, formal complaints, or petitions, the complainant or petitioner shall open the proof. The presiding officer(s) shall determine the subsequent order of procedure. Intervening parties shall follow the party in whose behalf intervention is made; except that in all cases where the intervention is not in support of either original party, the presiding officer(s) shall determine when such intervening party shall be heard.

Subp. 8. Failure to appear. If a complainant or petitioner fails to appear at a hearing, the presiding officer(s), at his (their) discretion may dismiss the proceeding with or without prejudice, continue the hearing, or grant the relief requested on the basis of a verified complaint or petition and affidavits, if any, filed in the case, which in all such cases shall be considered as having been offered in evidence at the hearing by the complainant or petitioner who is absent, but the presiding officer(s) shall not grant the relief requested upon such a showing if any person appears at the hearing who qualifies as a party and objects thereto.

Subp. 9. Admission of evidence. In a contested case, the presiding officer(s) may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. He (they) shall give effect to rules of privilege recognized by law. He (they) may exclude incompetent, irrelevant, immaterial, and repetitious evidence.

Subp. 10. Documentary evidence. In a contested case, documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

Subp. 11. Evidence must be offered. All evidence in a contested case, including records and documents in the possession of the commission of which the presiding officer(s) desire(s) to avail itself (themselves), shall be offered and made a part of the record in the case, and no other factual information or evidence shall be considered in the determination of the case.

Subp. 12. Official notice. In a contested case, the presiding officer(s) may take notice of judicially cognizable facts and in addition may take notice of general, technical, or scientific facts within their specialized knowledge. Parties shall be notified in writing either before or during hearing, or by reference in preliminary reports or otherwise, or by oral statement in the record, of the material so noticed, and they shall be afforded opportunity to contest the facts so noticed.

Subp. 13. Record of proceeding. The commission shall prepare an official record of all contested proceedings, including testimony and exhibits. Testimony before the presiding officer(s) shall be taken in shorthand or by stenotype by the official reporters at the expense of the commission. A transcript shall be prepared for any person requesting same at his expense; otherwise the preparation of a transcript shall be at the option of the commission.

Statutory Authority: *MS s 216A.05 subd 5*

7830.3100 WRITTEN NOTICE.

Except as otherwise provided by statute or this chapter, written notice of all hearings shall be served at least 30 days before the date set therefor, upon all parties and such other persons as the commission directs, unless the commission for good cause determines a longer or shorter period of notice. The notice shall state the time, place, and nature of the hearing and include a concise statement of the matter to be considered. The commission, except as otherwise provided by statute, may prescribe by order the form and extent of notice to be given. The department's notice of public hearings and decisions shall be issued weekly and shall be mailed to all subscribers, and to all parties and other persons deemed interested in a given proceeding by the secretary, and shall constitute official notice of all formal proceedings.

Statutory Authority: *MS s 216A.05 subd 5*

7830.3200 NOTICE REQUIRED WHEN UTILITY CHANGES RATES.

Subpart 1. Commission notice to governing bodies. When a utility has filed proposed changes in its rates or has requested new rates and charges, the commission shall, pursuant to statute, give notice by the governing bodies of each municipality or county in the area affected by such proposed changes. In addition, when determined by the commission to be appropriate, the utility proposing a change in rates shall notify individually its subscribers of the proposed change by billing stuffer or other appropriate method.

Subp. 2. Published notice. All utilities seeking rate changes which have been scheduled for hearing shall cause to be published at least ten days prior to the hearing a notice of hearing in a manner and form approved by the commission which will include, at a minimum, publication in the legal newspapers of the county seat towns in the counties in the service areas of the utilities affected. The notice shall indicate the place and date of the commencement of the hearing and shall include a summary sheet describing the percentage impact of the proposed rate changes upon revenues by the various classes of services offered by the petitioning utility and shall include a list of petitioner's business office locations where the proposed rate schedules and a comparison of present and proposed rates can be examined by the public. The notice shall also contain in bold type the following statement: "The rate changes described in this notice have been requested by (specific utility). The commission may either grant or deny the requested changes, in whole or in part, and may grant a lesser or greater increase than that requested for any class or classes of service." Affidavits of publication and/or proof of service shall be filed at or before the commencement of the scheduled hearing.

Subp. 3. Mailed notice. In addition to the notice required in subpart 2, the petitioning utility company shall, at least ten days prior to the scheduled hearing, mail a copy of the notice of hearing to the governing bodies of all cities within its service area as well as to all parties who have appeared in the two most recent rate proceedings of the petitioner and whose names appear as such in commission files. Such notice shall indicate the place of the hearing, the date of commencement, and include a summary sheet describing the percentage impact of the proposed rate changes upon revenues by the various classes of service offered by the petitioner, and shall include a list of the petitioner's business office locations where the proposed rate schedules and a comparison of present and proposed rates can be examined. Proof of service is to be filed at or before the scheduled initial hearing.

Subp. 4. Documents substantiating change at place of business. The petitioning utility shall, at least ten days prior to the hearing, have available for inspection at its principal business office and such other business offices of the petitioner as the commission shall direct, 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.

Statutory Authority: *MS s 216A.05 subd 5*

PREHEARING CONFERENCES

7830.3300 PREHEARING CONFERENCES AND SETTLEMENT CONFERENCES.

Subpart 1. Conferences. In order to provide opportunity for the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment, for settlement of a proceeding, or any of the issues therein, or consideration of means by which the conduct of the hearing may be facilitated and the disposition of the proceeding expedited, conferences between the parties to the proceeding and staff for such purposes may be held at any time prior to such hearings before the presiding officer(s) as time, the nature of the proceeding and the public interest may permit.

Subp. 2. Issues at conferences. At such prehearing or other conferences as may be held to expedite the orderly conduct and disposition of any hearing, there may be considered, in addition to any offers of settlement or proposals of adjustment, the possibility of the following:

- A. simplification of the factual and legal issues to be determined;
- B. amendment of pleadings;
- C. determination of prehearing motions;
- D. separation of issues;
- E. consolidation of presentations by parties having substantially the same interest;
- F. the names, number, and order of presentation of witnesses giving testimony;
- G. production of exhibits and consideration of their authenticity;
- H. arrangement for completion of discovery activities;
- I. submission and consideration of appropriate authorities in support of contentions made;
- J. estimation of the time required for hearing;
- K. discussion of the possibility of voluntary dismissal of the proceedings;
- L. all other matters that may aid in the disposition of the proceedings.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.3400 CONFERENCE RECOMMENDED BY PRESIDING OFFICER.

The presiding officer(s), with or without motion, may direct that a conference be held, and direct the parties to the proceeding, their attorneys, and the department's staff to appear there at to consider any or all of the matters enumerated in part 7830.3300, subpart 2. Due notice of the time and place of such conference will be given to all parties to the proceeding, their attorneys, and the department's staff. All parties shall come to the conference fully prepared for a useful discussion of all problems involved in the proceeding, both procedural and substantive, and fully authorized to make commitments with respect thereto. Such preparation should include, among other things, advance study of all relevant material, and advance informal communication between the parties, including requests for additional data and information, to the extent it appears feasible and desirable. Failure of a party to attend such conference, without prior notification to the presiding officer and for good cause, after being served with due notice of the time and place thereof, shall constitute a waiver of all objections to any order or ruling with respect thereto, but shall not otherwise prejudice such a party's position as to the issues in the proceeding. The presiding officer(s) at such conference may

MINNESOTA RULES 1989

7557

PRACTICE AND PROCEDURE 7830.3700

dispose of by ruling, irrespective of the consent of the parties, any procedural matters which he (they) is (are) authorized to rule upon during the course of the proceeding. All rulings made at the prehearing conference shall be binding on all parties to the proceedings. Such rulings may be subsequently modified for good cause shown.

Nothing contained in part 7830.3300 and this part shall be construed as precluding any party to a proceeding from submitting at any time offers of settlement or proposals of adjustment to all parties and to the department staff, or from requesting conferences for such purpose. The presiding officer(s) shall have the same powers at settlement conferences as those enumerated for prehearing conferences.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.3500 STIPULATION.

The parties to a proceeding before the commission may agree by stipulation either in writing filed with the commission or oral entry in the record upon the facts or any portion thereof involved in the controversy and such stipulation shall be regarded and used as evidence in the determination thereof.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

OTHER FORMAL HEARING PROCEDURES; POSTHEARING CONSIDERATIONS

7830.3600 WITNESSES.

Subpoenas requiring the attendance of witnesses at any designated place of hearing within the state of Minnesota and/or for the production of books, papers, or documents may be issued by the commission, or by any member thereof, or by a presiding officer. The commission or presiding officer(s) upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith may: quash or modify the subpoena if it is unreasonable or oppressive; or condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, or documents.

Witnesses who are subpoenaed are entitled to the same fees as are paid for like service in the district courts of the state of Minnesota, such fees to be paid by the party at whose instance the testimony is taken.

Service of subpoenas shall be made in like manner as provided by law for the service of subpoenas in the district courts of this state.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.3700 BRIEFS AND CLOSING ARGUMENT.

If briefs or closing argument are desired by any of the parties to the proceeding, they shall notify the presiding officer(s) before or at the hearing. If such request is made, the presiding officer(s) shall allow all parties to file briefs and/or make closing argument. He (they) shall also prescribe the time for service and filing of briefs or making of closing argument. All briefs for presentation to the presiding officer(s) must be filed with the secretary accompanied by written evidence of service upon opposing counsel, party, or parties. Oral argument shall be recorded and transcribed only if the commission so orders; when transcribed it shall be bound with a transcript of the testimony, if the testimony has been transcribed, and will be available to the commission for consideration in deciding the matter. The charge for transcripts shall be fixed by resolution of the commission.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.3800 DECISIONS AND ORDERS.

Decisions and orders of the commission when made shall be filed with the secretary, who shall notify by mail all parties to the proceeding of such filing. Every decision or order adverse to a party in a contested case shall be in writing or stated in the record and shall include a statement of the reasons therefor. The statement of reasons shall consist of a concise statement of the conclusions upon each contested issue of fact necessary to the decision. A copy of the decision or order shall be delivered or mailed to each party. In a contested case the presiding officer(s) shall make and file a proposal for decision stating his findings of fact and his conclusions and recommendations. The secretary shall serve each party by mail with a copy of the proposal for decision or order.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.3900 EXCEPTIONS.

Within 20 days after service of the proposal for decision or order, any party may file and serve exceptions thereto and reasons in support thereof. Exceptions with respect to statements of fact or matters of law must be specific and must be stated and numbered separately. When exception is taken to a statement of fact, a corrected statement must be incorporated. If exception is taken to conclusions in the report, the points relied upon to support the exception must be stated and numbered separately. A reply to exception is not required, but may be filed by any party within ten days after service of the exception to which reply is made along with proof of service thereof on all parties of record. Exceptions and replies thereto shall contain written arguments in support of the position taken by the party filing such exceptions or reply. An opportunity for oral argument before a majority of the commissioners shall be permitted all parties in the event that any party adversely affected by a proposal for decision, at the time of filing his exceptions or reply, requests oral argument. Oral arguments shall be limited to a discussion of legal questions and a restatement of facts in evidence. No new evidence shall be received at oral arguments.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.4000 PETITION FOR FURTHER HEARING.

Before the presiding officer(s) renders his (their) proposal for decision or order in any proceeding, any party desiring a further hearing may file a petition with the presiding officer(s), which shall clearly set forth the grounds relied upon for a further hearing; and if it is proposed to produce additional testimony, the testimony so to be produced shall be briefly summarized. No further hearing will be granted where it appears that the evidence to be adduced will be merely cumulative. The petition shall be served upon all parties to the proceeding. An adverse party shall have ten days from the date of the service of the petition within which to answer. No reply to an answer will be permitted. The presiding officer(s) may grant or deny the petition without a hearing or, in his (their) discretion, set a hearing on the petition.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.4100 PETITION FOR REHEARING, AMENDMENT, VACATION, RECONSIDERATION, REARGUMENT.

Within 20 days from the date of the mailing by the secretary of the final decision or order, any party may petition for a rehearing, or for an amendment or vacation of the findings of fact, decision, or order, or for reconsideration or reargument. If the petition be for a further hearing, rehearing, vacation, reconsideration, or reargument, the grounds relied upon shall be specifically set forth and the claimed errors clearly stated. If the petition be for an amendment of the findings of fact, decision, or order, it shall contain the desired proposed amendments, and the reasons therefor shall be clearly stated. The petition shall be

MINNESOTA RULES 1989

7559

PRACTICE AND PROCEDURE 7830.4400

served upon all parties to the proceeding. An adverse party shall have ten days from the date of the service of the petition to answer and no reply will be permitted. The commission may grant or deny the petition without a hearing, or in its discretion set a hearing thereon. Pending the decision of the commission on the petition, the commission may vacate and set aside the decision or order. No petition will extend the time of appeal from the decision or order.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.4200 AMENDMENT OF EFFECTIVE DATE OF ORDER OR DECISION.

Petitions for amendment of order or decision which seek only a change in the date when they shall take effect, or in the period or date thereby prescribed, must be made by petition reasonably filed and served in the like manner as other petitions under this rule, except that, in case of unforeseen emergency satisfactorily shown by the petitioner which requires relief within three days, such relief may be sought informally, by telegram or otherwise, upon notice thereof to all parties to the proceeding.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.4300 SECOND PETITION UPON SAME GROUND NOT ENTERTAINED.

A second petition for further hearing, rehearing, amendment, or vacation of any finding of fact, decision or order, reconsideration or reargument by the same party or parties and upon the same grounds as a former petition which has been considered and denied, will not be entertained.

Statutory Authority: *MS s 216A.05 subd 1; 216A.07 subd 5*

7830.4400 VARIANCES.

The Public Utilities Commission upon written application or upon its own motion shall grant a variance to any of its rules in an instance where it appears to the satisfaction of the commission that:

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
 - B. granting of the variance would not adversely affect the public interest;
- and
- C. granting of the variance would not conflict with standards imposed by law.

The commission shall, within 30 days after receipt of an application, notify the applicant by written order of the granting or denial of the variance and the reasons therefor. A variance may be conditioned upon alternative practices proposed by the applicant or imposed by the commission.

Variances may be of limited duration, and may be revoked if a material change occurs in the circumstances which justified the variance, or if the applicant fails to comply with the specified alternative practices.

Statutory Authority: *MS s 14.05 subd 4; 216A.05*