

REGULATIONS OF CONNECTICUT STATE AGENCIES

Department of Energy and Environmental Protection

Public Utilities Regulatory Authority

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**PETITIONS AND APPLICATIONS,
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(2) Notwithstanding subdivision (1) of this subsection, service may be made electronically to persons who have consented to be served exclusively by electronic means, as indicated on the appropriate service list.

(d) Consent to service by electronic means.

(1) Any person may consent to be served and to receive documents issued by the department exclusively by electronic means. Such consent shall be given on a form prescribed by the department and shall state that the consenting person (a) consents to be served and to receive documents issued by the department exclusively by electronic means, and (b) agrees to be bound by any orders or requirements contained in any documents received by electronic means in accordance with this subsection. The consenting person shall provide an e-mail address for the purpose of receiving all documents. A consent shall be signed by the consenting person and shall be filed under the department web filing system or submitted non-electronically.

(2) A consent given pursuant to this subsection shall be applicable to all the department's proceedings and remain effective until withdrawn by the consenting person. Any person may at any time withdraw his or her consent by submitting a written notice to the department.

(Effective December 21, 1971; amended June 11, 2003)

ARTICLE 2

CONTESTED CASES

Part 1

Parties, Intervention and Participation

Sec. 16-1-16. Designation of parties

In issuing the notice of hearing the commissioners will name as parties those persons whose legal rights, duties or privileges are being determined in the contested case and any person whose participation as a party is necessary to the proper disposition of such proceeding. All other persons proposing to be named or admitted as parties shall apply for such designation in the manner hereinafter described.

(Effective December 21, 1971)

Sec. 16-1-17. Application to be designated a party

(a) Filing of petition. Any other person who proposes to be named or admitted as a party to any proceeding shall file a written petition to be so designated not later than five (5) days before the date of the hearing of the proceeding as a contested case.

(b) Contents of petition. The petition shall state the name and address of the petitioner. It shall describe the manner in which the petitioner claims to be substantially and specifically affected by the proceeding. It shall state the contention of the petitioner concerning the issue of the proceeding, the relief sought by the petitioner, and the statutory or other authority therefor, and the nature of the evidence, if any, that the petitioner intends to present in the event that the petition is granted.

(c) Designation as party. The commissioners shall consider all such petitions and will name or admit as a party any person whose legal rights, duties or privileges will be determined by the decision of the commissioners after a hearing, if the commissioners find such person is entitled as of right to be a party to said contested case or that the participation of such person as a party is necessary to the proper disposition of said contested case.

(Effective December 21, 1971)

Sec. 16-1-18. Application to be an intervenor

(a) Request to participate. At any time prior to the commencement of oral testimony in any hearing on a contested case any person may request that the presiding officer permit that person to participate in the hearing as an intervenor.

(b) Contents of request. In so requesting, the proposed intervenor shall state the person's name and address and shall describe the manner in which said person is affected by the contested case. The proposed intervenor shall further state in what way and to what extent that person proposes to participate in the hearing.

(c) Designation as intervenor. The presiding officer will determine the proposed intervenor's participation in the hearing, taking into account whether or not such participation will furnish assistance to the commissioners in resolving the issues of the contested case.

(Effective December 21, 1971)

Sec. 16-1-19. Participation by intervenor

The intervenor's participation shall be limited to those particular issues, that state of the proceeding, and that degree of involvement in the presentation of evidence and argument that the presiding officer shall expressly permit at the time such intervention is allowed.

(Effective December 21, 1971)

Sec. 16-1-20. Procedure concerning added parties

(a) During hearing. In addition to the designation of parties in the initial notice and in response to petition, the commissioners may add parties at any time during the pendency of any hearing upon their finding that the legal rights, duties or privileges of any person will be determined by the decision of the commissioners after the hearing or that the participation of such person as a party is necessary to the proper disposition of the contested case.

(b) Notice of designation. In the event that the commissioners name or admit any party after service of the initial notice of hearing in a contested case, the commission shall give written notice thereof to all parties theretofore named or admitted. The form of the notice shall be a copy of the order of the commissioners naming or admitting such added party and a copy of any petition filed by such added party requesting designation as a party. Service of such notice shall be in the manner provided in these rules.

(Effective December 21, 1971)

Sec. 16-1-21. Status of party and of intervenor as party in interest

(a) Party as party in interest. By their decision of a contested case the commissioners shall dispose of the legal rights, duties and privileges of each party named or admitted to the proceeding. Each such party is deemed to be a party in interest who may be aggrieved by any final decision, order or ruling of the commissioners.

(b) Status of intervenor. No grant of leave to participate as an intervenor shall be deemed to be an expression by the commissioners that the person permitted to intervene is a party in interest who may be aggrieved by any final decision, order or ruling of the commissioners unless such grant of leave explicitly so states.

(Effective December 21, 1971)

Part 2**Hearing, General Provisions****Sec. 16-1-22. Grant of hearing**

(a) A hearing will be held in all contested cases and otherwise as the Commissioners may determine in specific investigations of the Commission.

(b) Any public service company which served an average of more than 50,000 customers in the calendar year covered by its most recent annual report to the Public Utilities Commission shall file with the Commission, the Governor of the State of Connecticut and the Chief Executive Officer of every municipality located within its franchise area, a preliminary notice of its intention to file an amended rate schedule proposing an increase in rates not less than thirty (30) days nor more than sixty (60) days prior to the actual filing of such amended rate schedule under Section 16-19 of the General Statutes. The preliminary notice shall state the approximate dollar amount and the approximate percentage of the increase in revenues over existing rates that the proposed amended rate schedule will produce.

(c) Such hearing as is ordered by the Commission for the investigation of proposed amendments to existing rate schedules by any public service company which is required to file a preliminary notice as set forth in Subsection (b) hereof shall not commence earlier than sixty (60) days after the date of the filing of such amendment under Section 16-19 of the General Statutes.

(Effective April 23, 1974)

Sec. 16-1-23. Calendar of hearings

The executive secretary of the commission shall maintain a docket of all proceedings of the commission. The executive secretary shall maintain a hearing calendar of all proceedings that are to receive a hearing. Proceedings shall be placed on the hearing calendar in the order in which the proceedings are listed on the docket of the commission, unless otherwise ordered by the commissioners.

(Effective December 21, 1971)

Sec. 16-1-24. Place of hearings

Unless by statute or by direction of the commissioners a different place is designated, all hearings of the commission shall be held at Hartford at the office of the commission.

(Effective December 21, 1971)

Sec. 16-1-25. Notice of hearings

(a) Persons notified. Except where the commissioners shall otherwise direct, the commission shall give written notice of a hearing in any pending matter to all parties, to all persons who have theretofore become intervenors, to all persons otherwise required by statute to be notified, and to such other persons as have filed with the commission their written request for notice of hearing in a particular matter. Also the commission shall give written notice to such additional persons as the commissioners shall direct. The commission may give notice by newspaper publication and by such other means as the executive secretary shall deem appropriate and advisable.

(b) Contents of notice. Notice of a hearing shall include but shall not be limited to the following: (1) a statement of the time, place and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the statutes and regulations involved; (4) a short and plain statement of fact describing the nature of the hearing and the principal facts to be asserted therein. A list of all persons named or known to the commission as parties may be included in the initial notice of hearing given in each contested case, but shall be omitted from any subsequent notice of hearing therein, except where the commissioners shall otherwise direct.

(Effective December 21, 1971)

Sec. 16-1-26. Bill of particulars

The initial notice may be limited to a statement of the issues involved, if the commission is unable to include in the initial notice of the hearing in a contested case other than an application concerning the fixing of rates a detailed statement of the facts to be asserted for the consideration of the commissioners therein. Not later than seven (7) days after service of the initial notice any party may apply to the commission for a bill of particulars containing a more definite and detailed statement of said facts. If the commissioners find that a more definite and detailed statement of such facts is necessary and appropriate, a bill of particulars shall be prepared as directed by the commissioners and a copy served on each person named or admitted as a party on or before the date of service of the bill of particulars.

(Effective December 21, 1971)

Sec. 16-1-27. Effect of initial notice of hearing

Except as otherwise directed by an order of the commissioners, each contested case shall be deemed to have commenced on the date of service of the initial notice of the hearing thereof.

(Effective December 21, 1971)

Sec. 16-1-28. Ex parte communication

Unless required for the disposition of ex parte matters authorized by law, neither the commissioners nor any member of the commission staff designated as a presiding officer shall communicate directly or indirectly with any person or party concerning any issue of fact or law involved in any contested case that has been commenced under these rules, except upon notice and opportunity for all parties to participate. The commission staff member designated as presiding officer and the commissioners may severally communicate with each other ex parte and may have the aid and advice of such members of the commission staff as are designated to assist them in such contested case. This rule shall not be construed to preclude such necessary routine communications as are necessary to permit the commission staff to investigate facts and to audit the applicable records of any party in a contested case at any time before, during and after the hearing thereof. (See Sec. 16-1-27)

(Effective December 21, 1971)

Sec. 16-1-29. Representation of parties and intervenors

Each person making an appearance before the commission as an attorney, agent or representative of any person, firm, corporation or association subject to the commission's regulatory jurisdiction in connection with any contested case shall promptly notify the executive secretary of the commission in writing in order that the same may be made a part of the record of the contested case.

(Effective December 21, 1971)

Sec. 16-1-30. Attorney defined

As used in these rules, the word "attorney" shall mean an attorney at law, duly admitted to practice before the superior court of the state of Connecticut. Any other person who appears before the commission in any contested case shall be deemed to have appeared as the agent or representative of a person, firm, corporation or association and, as such, shall file with the written notification of appearance the written authorization of the person, firm, corporation or association being represented and shall be fully bound to proceed in accordance with these rules in the contested case.

(Effective December 21, 1971)

Sec. 16-1-31. Former commissioners and employees

Except when specially authorized by the commissioners, no person who has served as a commissioner or employee of the commission shall practice or act as attorney, agent or representative in any contested case before the commission or by any means aid in the preparation or prosecution of any such contested case which was pending before the commission while that person was so serving, if such representation or other employment in the contested case does or may involve the disclosure of confidential information acquired while serving as such commissioner or employee of the commission. In all cases except upon individual application and showing that such subsequent employment is not contrary to the public interest, no former commissioner or employee of the commission shall appear before the commission or accept employment in connection with any contested case before the commission within six months after the termination of such employment. The restrictions of this rule are in addition to and are not a limitation upon the provisions of the general statutes and the canons of ethics of any profession.

(Effective December 21, 1971)

Sec. 16-1-32. Rules of conduct

Where applicable, the canons of professional ethics and the canons of judicial ethics adopted and approved by the judges of the superior court govern the conduct of the commissioners, state employees serving the commission, and all attorneys, agents, representatives, and any other persons who shall appear in any proceeding or in any contested case before the commission in behalf of any public or private person, firm, corporation or association.

(Effective December 21, 1971)

Part 3

Hearings, Procedure

Sec. 16-1-33. General provisions

(a) Purpose of hearing. The purpose of the hearing in a contested case shall be to provide to all parties an opportunity to present evidence and argument on all issues to be considered by the commissioners.

(b) Uncontested disposition of case. Unless precluded by law, any contested case may be resolved by stipulation, agreed settlement consent order or default upon order of the commissioners. Upon such disposition a copy of the order of the commissioners shall be served on each party.

(Effective December 21, 1971)

Sec. 16-1-34. Record in contested cases

The record in each contested case shall be maintained by the commission in the custody of the executive secretary and shall include but shall not be limited to the following items. The commission will not be required to set forth as a separate item any of the following which may have been duplicated and incorporated in some other portion of the record:

(a) Any notices, petitions, applications, bill of particulars, complaints, orders, decisions, motions, briefs, exhibits, and any other documents that have been filed with the commission or issued by the commission in written form; (b) all written evidence of any kind received and considered by the commissioners; (c) any questions and offers of proof together with any objections and rulings thereon during

the course of the hearing; (d) any recommended decision, opinion or report submitted in writing to the commissioners by the member of the commission staff designated as the presiding officer at the hearing; (e) the transcript of the hearing.

(Effective April 25, 1974)

Sec. 16-1-35. Witnesses and subpoenas

In the conduct of the hearing of a contested case any commissioner may act in behalf of the commissioners and summon and examine under oath such witnesses in relation to the affairs of any public service company as the commissioners may find advisable. Any commissioner may act in behalf of the commissioners to direct the production and examination of such books, records, vouchers, memoranda, documents, letters, contracts or other papers in relation to the affairs of any public service company as the commissioners may find advisable. The fees of witnesses summoned on behalf of the commissioners to appear before the commissioners or before any presiding officer in the hearing of a contested case, and the fees for summoning such witnesses shall be the same as in the superior court. All such fees, together with any other expenses authorized by statute whose method of payment is not otherwise provided shall be paid through the executive secretary of the commission in the same manner as court expenses. In the event that any witness summoned under this authority objects to testifying or to producing any book or other paper ordered hereunder on the ground that such testimony, book or paper may tend to incriminate said witness, and in the further event that the commissioners or any commissioner directs said witness nevertheless to testify or to produce such book or paper and said witness complies or is compelled to comply by order of the court, then said witness shall not be prosecuted for any matter concerning which he has so testified, as provided in section 16-8 of the general statutes.

(Effective December 21, 1971)

Sec. 16-1-36. Filing of added exhibits

Upon order of any commissioner before, during or after the hearing of a case any party shall prepare and file added exhibits and testimony. Such added exhibits and testimony shall be deemed to be a disclosure by such party pursuant to section 16-8 of the general statutes.

(Effective December 21, 1971)

Sec. 16-1-37. Obstructing hearing

Any person who testifies falsely to any material fact in any contested case wherein he has given oath or affirmation or who wilfully falsifies any account, book, paper, record, report, financial statement, or any other exhibit that is made a part of the record in any contested case with the intent to mislead or deceive the commissioners or presiding officer will be prosecuted as provided in section 16-33 of the general statutes.

(Effective December 21, 1971)

Sec. 16-1-38. Rules of evidence

The following rules of evidence shall be followed in contested cases:

(a) Rules of evidence. Any oral or documentary evidence may be received, but the presiding officer shall, as a matter of policy, exclude irrelevant, immaterial or unduly repetitious evidence. The commissioners or presiding officer shall give effect to the rules of privilege recognized by law in Connecticut. Subject to these requirements and subject to the right of any party to cross examine, any testimony may be received in written form.

(b) Documentary Evidence. Documentary evidence may be received at the discretion of the commissioners or presiding officer in the form of copies or excerpts, if the original is not found readily available. Upon request by any party an opportunity shall be granted to compare the copy with the original, which shall be subject to production by the person offering such copies, subject to the provisions of Section 52-180 of the General Statutes as amended.

(c) Cross examination. Such cross examination may be conducted as the commissioners or the presiding officer shall find to be required for a full and true disclosure of the facts.

(d) Facts noticed, commission records. The commissioners may take notice of judicially cognizable facts, including prior decisions and orders of the commissioners. Any exhibit admitted as evidence by the commissioners or the presiding officer in a prior hearing of a contested case may be offered as evidence in a subsequent contested case and admitted as an exhibit therein; but the commissioners shall not deem such exhibit to be judicially cognizable in whole or in part and shall not consider any facts set forth therein unless such exhibit is duly admitted as evidence in the contested case then being heard.

(e) Facts noticed, procedure. The commissioners may take notice of generally recognized technical or scientific facts within the commission's specialized knowledge. Parties shall be afforded an opportunity to contest the material so noticed by being notified before or during the hearing, by an appropriate reference in preliminary reports or otherwise of the material noticed. This provision shall also apply to material noticed in any staff memoranda or data that may be submitted to the commissioners for their consideration in the determination of the contested case. The commissioners shall nevertheless employ the commission's experience, technical competence, and specialized knowledge in evaluating the evidence presented at the hearing for the purpose of making their finding of facts and arriving at a decision in any contested case.

(Effective April 25, 1974)

Sec. 16-1-39. Order of procedure at hearings

In hearings on complaints, applications, and petitions, the party that shall open and close the presentation of any part of the matter shall be the complainant, applicant, or petitioner. In a case where the opening portion has already been submitted in written form as provided by these rules, the hearing shall open with the cross examination of persons who have given written testimony. In the event any person has given written testimony and is not available for such cross examination at the time and place directed by the commissioners, all of such written testimony may be discarded and removed from the record at the direction of the commissioners.

(Effective December 21, 1971)

Sec. 16-1-40. Limiting number of witnesses

To avoid unnecessary cumulative evidence, the commissioners or the presiding officer may limit the number of witnesses or the time for testimony upon a particular issue in the course of any hearing.

(Effective December 21, 1971)

Sec. 16-1-41. Limitation of direct case in rate hearing

In any proceeding in which a rate change is proposed, the public service company's direct case shall be limited substantially to the statement of application and the exhibits and other materials annexed thereto unless the commissioners or the presid-

ing officer shall rule otherwise for good cause shown. All prepared written testimony filed with the statement of application shall be received in evidence with the same force and effect as though it were stated orally by the witnesses, provided that each such witness shall be present at the hearing at which such prepared written testimony is offered, shall adopt such written testimony under oath, and shall be made available for cross examination as directed by the commissioners or the presiding officer.

(Effective December 21, 1971)

Part 4

Hearings, Decision

Sec. 16-1-42. Filing of proposed findings of facts and briefs

At the conclusion of the presentation of evidence in any hearing the commissioners or the presiding officer shall fix a time within which any party may file proposed findings of facts and briefs.

(Effective December 21, 1971)

Sec. 16-1-43. Final decision

(a) Procedure and contents. All decisions and orders of the commissioners concluding a contested case shall be in writing. The decision shall include all findings of fact and conclusions of law relied upon by the commissioners in arriving at the decision, the findings of fact and law to be separately stated. The findings of fact shall also set forth a concise and explicit statement of the underlying facts supporting the findings of fact, where appropriate. In any contested case where the commissioners or presiding officer have required any party to submit proposed findings of fact, the decision shall further include a ruling by the commissioners on each proposed finding. In the event, however, that such a proposed finding of fact has been submitted by any party without such requirement or order of the commissioners or presiding officer, then the commissioners' decision may omit a ruling on any findings so proposed.

(b) Service. Parties shall be served in the manner herein provided with a copy of the decision and order of the commissioners.

(Effective December 21, 1971)

Sec. 16-1-44. Procedure to submit to parties

Where a majority of the commissioners have not heard a contested case or read the record thereof, any decision adverse to a party other than the commission, itself, shall not be made until such decision is served as a proposed decision upon each of the parties and until each party adversely affected thereby is afforded an opportunity to file exceptions and to present briefs and oral argument to the commissioners. Such proposed decision shall contain a statement of the reasons therefore and of each issue of fact or law necessary to the proposed decision, which statement shall have been prepared by the presiding officer or by a commissioner who has read the record of the hearing. By written stipulation the parties may waive compliance with this section of these rules.

(Effective December 21, 1971)