

NOTICE OF
PROPOSED NEW RULE

- The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301 and Subsection 53C-1-201(3)(c).
- Please address questions regarding information on this notice to the agency.
- The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- The full text of all rule filings may also be inspected at the Office of Administrative Rules.

Agency Information

1. Agency: Public Service Commission - Administration
 Room no.:
 Building: HEBER M WELLS BLDG
 Street address 1: 160 E 300 S
 Street address 2:
 City, state, zip: SALT LAKE CITY UT 84111-2316
 Mailing address 1: PO BOX 45585
 Mailing address 2:
 City, state, zip: SALT LAKE CITY UT 84111-5585

Contact person(s):

Name: Phone: Fax: E-mail:

Sheri Bintz	801-530-6714	801-530-6796	sbintz@utah.gov
Jennie Jonsson	801-530-6763		jjonsson@utah.gov

(Interested persons may inspect this filing at the above address or at DAR during business hours)

Rule Information

DAR file no: 41116 Date filed: 12/28/2016 10:16 AM
 State Admin Rule Filing Key: 158149
 Utah Admin. Code ref. (R no.): R 746 - 1 -

Title

2. Title of rule or section (catchline):
 Public Service Commission Administrative Procedures Act Rule

Notice Type

3. Type of notice: New Rule

Rule Purpose

4. Purpose of the rule or reason for the change:
 The Public Service Commission (Commission) has determined that its existing rules governing administrative procedures (Rule R746-100) need to be updated, reorganized, and clarified. Therefore, the Commission proposes to repeal Rule R746-100 and enact this new rule to govern its administrative proceedings.

Response Information

5. This change is a response to comments by the Administrative Rules Review Committee.
 No

Rule Summary

6. Summary of the rule or change:

Existing provisions are reorganized and clarified. Specifically, lengthy subsections of text are broken apart and each substantive provision numbered according to the statutory numbering scheme. In addition, the new rule makes some substantive changes to existing provisions and introduces new regulations as follows: 1) definitions and regulations that are set forth in statute are eliminated from the rules; 2) defined terms that are not used again in the body of the rule are deleted from the definition section; 3) the following requests for agency action are defined as informal proceedings: a) an unopposed petition for a certificate of public convenience and necessity; b) an unopposed request for acknowledgment or approval of a telecommunications utility's name change; and c) an unopposed request for acknowledgment or approval of a merger, acquisition, or similar organizational restructuring that does not alter or affect the services provided by a telecommunications utility; 4) language that is informational or explanatory, but that does not set forth a requirement or prohibition is eliminated, see Subsection R746-100-3(B)(1), for example; 5) rules governing representation of parties are clarified by reference to the Utah Supreme Court Rules of Professional Practice; 6) rules governing filing of petitions, testimony, etc. are updated to require electronic filing, either by e-mail or through a secure server, except in extenuating circumstances. New language requires specific information in electronic file names, with potential penalties for failure to comply; 7) an existing rule, which requires that a motion to dismiss be filed before a responsive pleading is filed, is deleted; 8) new language establishes the Commission's obligation to comply with the Utah Government Records Access and Management Act; 9) an existing rule, which requires parties to file joint exhibits prior to hearing, is deleted; 10) an existing rule, which allows a non-party to provide sworn testimony subject to cross examination, is deleted; and 11) the rules governing provision of, use of, and access to confidential and highly confidential information are significantly modified, per requests and recommendations of the public utilities that regularly deal with such information.

Aggregate Cost Information

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: Yes

To facilitate electronic filing, the Commission will incur costs to build a secure, dedicated server. Thereafter, it will cost the Commission \$513.82 per month to maintain the server.

B) Local government:

Affected: No

Local governments are not required to enforce or comply with the Commission's rules governing administrative proceedings. No fiscal impact to local government is anticipated.

C) Small businesses:

Affected: Yes

("small business" means a business employing fewer than 50 persons)

Small businesses that participate in administrative proceedings before the Commission will be required to file petitions, testimony, etc. electronically, either by email or through the Commission's secure server. A business that will access the Commission's secure server must provide the Commission with the static public IP address from which information will be sent, as well as an SSH key. In addition, the business must install on its local machine an SFTP client that supports TLSv1.2. Where each affected business has its own unique IT infrastructure, initial set-up costs will vary and cannot be estimated. However, such costs, if any, should be minimal. In addition, this rule filing relieves small businesses of the requirement to provide multiple paper copies of their filings, which will result in savings over time. The Commission does not have data available to calculate the aggregate effect in dollars; however, it is likely that the savings resulting from the electronic filing system will outweigh any initial costs over time.

D) Persons other than small businesses, businesses, or local government entities:

Affected: Yes

("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency)

Affected persons will be required to file petitions, testimony, etc. electronically, either by email or through the Commission's secure server. A person that will access the Commission's secure server must provide the

Commission with the static public IP address from which information will be sent, as well as an SSH key. In addition, the affected person must install on its local machine an SFTP client that supports TLSv1.2. Where each affected person has its own unique IT infrastructure, initial set-up costs will vary and cannot be estimated. However, such costs, if any, should be minimal. In addition, this rule filing relieves affected persons of the requirement to provide multiple paper copies of their filings, which will result in savings over time. The Commission does not have data available to calculate the aggregate effect in dollars; however, it is likely that the savings resulting from the electronic filing system will outweigh any initial costs over time.

Compliance Cost Information

8. Compliance costs for affected persons:

To comply, affected persons will be required to file petitions, testimony, etc. electronically, either by email or through the Commission's secure server. An affected person that will access the Commission's secure server must provide the Commission with the static public IP address from which information will be sent, as well as an SSH key. In addition, the affected person must install on its local machine an SFTP client that supports TLSv1.2. Where each affected person has its own unique IT infrastructure, initial set-up costs will vary and cannot be estimated. However, such costs, if any, should be minimal. In addition, this rule filing relieves affected persons of the requirement to provide multiple paper copies of their filings, which will result in savings over time. The Commission does not have data available to calculate the aggregate effect in dollars; however, it is likely that the savings resulting from the electronic filing system will outweigh any initial costs over time.

Department Head Comments

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

As explained in the rule analysis, businesses that will file records through the Commission's secure server might incur minimal initial set-up costs, which will be offset over time by elimination of the paper filing requirement.

B) Name and title of department head commenting on the fiscal impacts:

Thad LeVar, Chair

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :

Section 54-1-6

Section 54-1-3

Section 54-4-1

Section 54-3-21

Section 54-4-2

Section 54-4-1.5

Title 63G, Chapter 4

Section 54-7-17

Section 54-1-1

11. This rule adds, updates, or removes the following title of materials incorporated by reference (a copy of materials incorporated by reference must be submitted to DAR; if none, leave blank) :

Official Title of Materials Incorporated (from title page): Rules Governing the Utah State Bar
Publisher: Utah Judicial Counsel Organization
Date Issued: 11/01/2012
Issue, or version:
ISBN Number:
ISSN Number:
Cost of Incorporated Reference:
Adds, updates, removes: Adds

Comments

12. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy) : 02/14/2017
B) A public hearing (optional) will be held:
On (mm/dd/yyyy): At (hh:mm AM/PM): At (place):

Proposed Effective Date

13. This rule change may become effective on (mm/dd/yyyy): 02/21/2017
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After a minimum of seven days following the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Indexing Information

14. Indexing information - keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")):
public utilities
confidential information
administrative proceedings
electronic filing

File Information

15. Attach an RTF document containing the text of this rule change (filename):
There is a document associated with this rule filing.

To the Agency

Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the Utah State Bulletin, and delaying the first possible effective date.

Agency Authorization

Agency head or designee, and title:

Jennie Jonsson
Administrative Law Judge

Date (mm/dd/yyyy): 11/14/2016