

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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In the Matter of Potential Amendments to Utah Administrative Code R746-100	<u>DOCKET NO. 16-R100-02</u> <u>REQUEST FOR COMMENTS</u>
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ISSUED: May 17, 2016

The Public Service Commission of Utah (Commission) has undertaken a review of Utah Administrative Code R746-100, which is currently titled "Practice and Procedures Governing Formal Hearings." The Commission's review revealed the following concerns:

1. Some of the rule sections needlessly duplicate statutory language.
2. Some of the rule sections do not set forth a requirement, process, or prohibition applicable to public utilities. Rather, these sections provide lengthy explanations of the Commission's internal procedures—for example, the office procedure for numbering dockets.
3. In general, the language is unnecessarily complicated, repetitive, and wordy.
4. In general, the numbering system is awkward and inconsistent.
5. Some of the specific requirements, which were promulgated decades ago, are no longer necessary.

To remedy these concerns, the Commission proposes to repeal and re-enact the rules governing its administrative procedures and has prepared an initial draft, as to which the Commission requests comments.<sup>1</sup>

To aid affected persons in reviewing and commenting on the proposed rule, the following documents are attached to this request:

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<sup>1</sup> The Commission is currently considering comments in Docket No. 16-R100-01 regarding electronic filings. If the Commission transitions to paperless filings, the corresponding section of the rule will be amended further.

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1. Microsoft Word document titled "PSC Rule 746-1." This document is a clean copy of the proposed, re-enacted procedural rules. Changes made to the existing language are not tracked in this document.
2. Microsoft Word document titled "PSC Rule 746-100\_changes tracked." This document tracks the changes made in the process of editing and revising Rule 746-100. Language that has been eliminated or significantly edited is struck through. New language is underlined.
3. Microsoft Word document titled "Change chart – R746-100 to R746-1." This document provides brief explanations of the proposed edits and revisions. For each substantive section, the chart identifies:
  - the existing rule number;
  - the new rule number;
  - the change; and
  - the reason for the change.

The Commission requests that comments regarding the proposal to repeal R746-100 and enact R746-1 be submitted no later than **Monday, July 18, 2016**, with reply comments submitted no later than **Monday, August 15, 2016**.

DATED at Salt Lake City, Utah, May 17, 2016.

/s/ Jennie T. Jonsson  
Administrative Law Judge

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Approved and confirmed May 17, 2016 by the Public Service Commission of Utah.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg  
Commission Secretary  
DW#

CERTIFICATE OF SERVICE

I CERTIFY that on May 17, 2016, a true and correct copy of the foregoing was served upon the following as indicated below:

By E-Mail:

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Administrative Assistant

# PSC Rule 746-1

1 **R746. Public Service Commission, Administration.**

2  
3 **R746-1. Public Service Commission Administrative Procedures Act**  
4 **Rule.**

5  
6 **R746-1-101. Title and Organization.**

7 This rule R746-1 is:

8 (1) known as the "Public Service Commission Administrative  
9 Procedures Act Rule; and

10 (2) organized into the following Parts:

11 (a) Part 100: General provisions;

12 (b) Part 200: Complaints and pleadings;

13 (c) Part 300: Motions;

14 (d) Part 400: Pre-hearing briefs, comments, and testimony;

15 (e) Part 500: Discovery;

16 (f) Part 600: Confidential information;

17 (g) Part 700: Hearings; and

18 (h) Part 800: Post-hearing proceeding.

19  
20 **R746-1-102. Authority.**

21 This rule is adopted under Utah Code § 54-1-1.

22  
23 **R746-1-103. Definitions.**

24 (1) "Applicant" means any person:

25 (a) applying for a license, right, or authority; or

26 (b) requesting agency action from the Commission.

27 (2) "Commission" is defined at Utah Code § 54-2-1(3).

28 (3) "Complainant" means a person who files a complaint with  
29 the Commission, pursuant to R746-1-201.

30 (4) "Division" means the Division of Public Utilities, State  
31 of Utah Department of Commerce.

32 (5)(a) "Initial pleading" means a request for agency action,  
33 which includes:

34 (i) an application;

35 (ii) a petition;

36 (iii) an order to show cause; and

37 (iv) any other filing reasonably calculated to initiate an  
38 adjudicative proceeding.

39 (b) "Initial pleading" does not include:

40 (i) a complaint;

41 (ii) a motion or similar filing in a docket; or

42 (iii) an informational filing that does not request or  
43 require Commission action.

44 (6) "Interested person" means a person who requests to be  
45 placed on the service list for a docket.

46 (7) "Intervenor" means a person who:

47 (a) timely files with the Commission a petition for

48 intervention in a pending matter; and  
49 (b) receives Commission approval to participate as a party.  
50 (8) "Office" means the Office of Consumer Services, State of  
51 Utah Department of Commerce.  
52 (9) "Party" means a person who is entitled to participate in  
53 a proceeding, pursuant to Utah Code § 63G-4-103(1)(f).  
54 (10) "Person" is defined at Utah Code § 54-2-2.  
55 (11) "Petitioner" means a person seeking relief from the  
56 Commission other than the issuance of a license, right, or  
57 authority.  
58 (12) "Presiding officer" is defined at Utah Code § 63G-4-  
59 103(1)(h).  
60 (13)(a) "Proceeding" or "adjudicative proceeding" means an  
61 action before the Commission, initiated either by a notice of  
62 agency action or request for agency action, pursuant to Utah Code  
63 § 63G-4-201.  
64 (b) "Proceeding" does not include:  
65 (i) an informal or preliminary inquiry or investigation  
66 undertaken by the Commission to determine whether a proceeding is  
67 warranted; or  
68 (ii) rulemaking pursuant to Utah Code § 63G-3-1 et seq.  
69 (14) "Respondent" means a person:  
70 (a) against whom a notice of agency action or request for  
71 agency action is directed; or  
72 (b) required, or permitted by statute, to respond to an  
73 application, petition, or other request for agency action.  
74 (15) "Responsive pleading" means any rejoinder to an initial  
75 pleading, including:  
76 (a) an answer;  
77 (b) a protest or opposition; or  
78 (c) other similar filing.  
79

80 **R746-1-104. Designation of Adjudicative Proceedings.**

81 (1) The following requests for agency action shall be  
82 adjudicated as informal proceedings:  
83 (a) a complaint;  
84 (b) an unopposed application for a certificate of public  
85 convenience and necessity;  
86 (c) a request for acknowledgment or approval of a  
87 telecommunications utility's name change; and  
88 (d) a request for acknowledgment or approval of a merger,  
89 acquisition, or similar organizational restructuring that does not  
90 alter or affect the services provided by a telecommunications  
91 utility.  
92 (2) A request for agency action not listed in this  
93 Subsection 104(1) shall be adjudicated as a formal proceeding.  
94

95 **R746-1-105. Utah Rules of Civil Procedure.**

96 The Utah Rules of Civil Procedure and case law interpreting  
97 these rules are persuasive authority in Commission adjudications  
98 unless otherwise provided by:

- 99 (1) Title 63G, Chapter 4, Administrative Procedures Act; or  
100 (2) Utah Administrative Code R746 et seq.

101

102 **R746-1-106. Computation of Time.**

103 (1) Unless this Subsection 106(2) applies, periods of time  
104 in Commission proceedings shall:

105 (a) exclude the first day of the act, event, or default from  
106 which the time begins to run; and

107 (b) include the last day unless it is Saturday, Sunday, or  
108 legal holiday, in which case the period shall run until the end of  
109 the next day that is not a Saturday, Sunday, or legal holiday.

110 (2) This Subsection 106(1) is superseded by any conflicting:

111 (a) order of the Commission;

112 (b) statute; or

113 (c) rule.

114

115 **R746-1-107. Representation of Parties.**

116 A party may:

117 (1) be represented by:

118 (a) an attorney licensed to practice in Utah; or

119 (b) an attorney licensed in a foreign state, pursuant to §  
120 14-801 of the Utah Supreme Court Rules of Professional Practice,  
121 which is incorporated by reference;

122 (2) represent oneself individually; or

123 (3) if not an individual, represent itself through an  
124 officer or employee.

125

126 **R746-1-108. Intervention.**

127 A person who wishes to intervene in a proceeding shall comply  
128 with Utah Code § 63G-4-207.

129

130 **R746-1-109. Deviation from Procedural Rules.**

131 (1) A party may move the Commission to deviate from a  
132 specified procedural rule.

133 (2) The party making the motion to deviate has the burden to  
134 demonstrate that the procedural rule imposes a hardship that  
135 outweighs the benefit(s) of the rule.

136

137 **R746-1-201. Complaints.**

138 (1) A person may file with the Commission a complaint  
139 against a public utility if the person has first:

140 (a) attempted to resolve the complaint with the utility's  
141 customer relations department; and



142 (b) reported the complaint to the Division for  
143 investigation.

144 (2) To file a complaint, a person shall:

145 (a) provide a concise and legible account of the facts and  
146 circumstances on the form provided by the Division; and

147 (b) evidence having served the complaint on the public  
148 utility, pursuant to R746-1-203(2)(b).

149

150 **R746-1-202. Title of Pleadings.**

151 A person who files a pleading shall include the following  
152 information in the title:

153 (1)(a) name of attorney preparing the pleading; or

154 (b) if no attorney is involved, name of the person signing  
155 the pleading;

156 (2) address and telephone number of the person identified in  
157 this Subsection 202(1);

158 (3) nature of the request;

159 (4) description of the action or relief requested;

160 (5) type of pleading; and

161 (6) docket number, if known.

162

163 **R746-1-203. Form of Complete Filing.**

164 In order to be considered complete, a filing other than a  
165 complaint shall conform to the following requirements.

166 (1) The filing shall be filed in both paper and electronic  
167 formats.

168 (a) The paper format shall be:

169 (i) double-spaced on 8-1/2 by 11-inch paper;

170 (ii) typed in a font of at least 12 points; and

171 (iii) if longer than five pages, printed on doubled-sided  
172 and three-hole-punched paper.

173 (b) The electronic format shall be:

174 (i) presented as a functional and searchable electronic word  
175 processing or spreadsheet document, as applicable, that is

176 substantially the same as the paper version filed;

177 (ii) filed by:

178 (A) e-mail or;

179 (B) compact disc; and

180 (iii) identified by an electronic file name that includes:

181 (A) the name of the person making the filing; and

182 (B) the type of filing.

183 (2) The filing shall:

184 (a) be signed, as applicable, by:

185 (i) the party;

186 (ii) the party's counsel; or

187 (iii) other authorized representative of the party; and

188 (b) include a certificate of service:

189 (i) stating that a true and correct copy of the filing was  
190 served upon each of the parties;

191 (ii) identifying the manner of service; and

192 (iii) identifying the date of service.

193

194 **R746-1-204. Effective date of filing.**

195 (1) If filed with the Commission during regular business  
196 hours, a complete filing is effective on the date filed.

197 (2) If filed with the Commission after regular business  
198 hours, a complete filing is effective on the next business day.

199

200 **R746-1-205. Content of Initial Pleading.** An initial pleading  
201 shall include the following information, to the extent it is known  
202 and applicable:

203 (1) the reference numbers, docket numbers, or other  
204 identifying symbols of relevant tariffs, rates, schedules,  
205 contracts, applications, rules, or similar matter or material;

206 (2)(a) the name of each participant for whom the filing is  
207 made; or

208 (b) if the filing is made for a group of participants, the  
209 name of the group;

210 (3) if a statute, rule, regulation, or other authority  
211 requires the Commission to act within a specific time period, a  
212 specific section of the pleading:

213 (a) located after the heading or caption;

214 (b) entitled "Proceeding Time Period"; and

215 (c) setting forth:

216 (i) a reference or citation to the statute, rule,  
217 regulation, or other authority;

218 (ii) the applicable time period; and

219 (iii) the expiration date of the applicable time period,  
220 identified by day, month, and year;

221 (4) the specific authorization or relief sought;

222 (5) copies of, or references to, tariff or rate sheets  
223 relevant to the pleading;

224 (6) the relevant facts, if not set forth in a previously  
225 filed document that is identified within the filing being made;

226 (7) the position taken by the person filing the pleading,  
227 including the basis in fact and law for the position; and

228 (8) the name, address, and telephone number of an individual  
229 who, with respect to a matter contained in the filing, represents  
230 the person for whom the filing is made.

231

232 **R746-1-206. Amendment of Complaint or Initial Pleading.**

233 (1) A party that has filed a complete and effective  
234 complaint or initial pleading may amend the filing without leave  
235 of the Commission at any time before:

236 (a) a responsive pleading has been filed; or  
237 (b) the time for filing a responsive pleading has expired.  
238 (2) If a defect in a complaint or initial pleading does not  
239 affect the substantial rights of the parties, it does not require  
240 amendment.

241  
242 **R746-1-207. Responsive Pleadings.**

243 A response to a pleading or complaint shall be filed in  
244 accordance with Utah Code § 63G-4-204, unless the Commission  
245 establishes a different response deadline.

246  
247 **R746-1-301. Motions.**

248 Unless otherwise ordered by the Commission, briefing on a  
249 motion shall be as follows:

250 (1) Any response shall be filed within 30 days of the  
251 service date of the motion.

252 (2) Any reply shall be filed within 15 days of the service  
253 date of the response.

254  
255 **R746-1-401. Pre-hearing Briefs, Comments, and Testimony - General**  
256 **Requirements.**

257 (1) Parties to a docket shall file briefs, comments or  
258 testimony, as applicable, as required in the Commission's  
259 scheduling order.

260 (2) Pre-hearing filings and accompanying exhibits shall:

261 (a) utilize a sequential line numbering system; and

262 (b) be filed in both paper and electronic formats.

263 (3) The paper format shall conform to the requirements set  
264 forth in R746-1-203(1)(a).

265 (4) The electronic format shall:

266 (a) conform to the requirements set forth in R746-1-  
267 203(1)(b); and

268 (b) as to testimony, be identified by an electronic file  
269 name including the following:

270 (i) the word "direct," "rebuttal" or "surrebuttal," as  
271 applicable;

272 (ii) the last name of the witness;

273 (iii) the name of the party on whose behalf the witness  
274 offers testimony; and

275 (iv) as applicable, the word "exhibit" or "workpapers,"  
276 followed by any applicable identification number or letter.

277 (5) If an exhibit accompanying pre-hearing testimony  
278 utilizes any embedded formula or algorithm, it shall be filed in  
279 an electronic format that allows the embedded data to be accessed.

280  
281 **R746-1-402. Pre-hearing Testimony - Inclusion in Record.**

282 (1)(a) A party may move the Commission to accept pre-hearing

283 testimony into evidence without having it read under oath.

284 (b) Any such motion shall be subject to objection and  
285 argument.

286 (2) Pre-hearing testimony that is entered into evidence  
287 shall be subject to cross-examination.

288

289 **R746-1-501. Discovery.**

290 (1) Parties shall attempt to complete informal discovery  
291 through:

292 (a) data requests;

293 (b) written interrogatories;

294 (c) requests for admission; and

295 (d) requests for production of documents and other records.

296 (2) If a party considers informal discovery pursuant to this  
297 Subsection 501(1) to be insufficient, the party may move the  
298 Commission for formal discovery according to Rules 26 through 37  
299 of the Utah Rules of Civil Procedure, with the following  
300 exceptions and modifications:

301 (a)(i) If no responsive pleading is required in a  
302 proceeding, parties may begin discovery immediately upon the  
303 filing and service of an initial pleading.

304 (ii) If a responsive pleading is required, discovery shall  
305 not begin until ten days after the time limit for filing the  
306 responsive pleading.

307 (b) Rule 26(a)(4) of the Utah Rules of Civil Procedure,  
308 which restricts discovery, shall not apply. The opinions,  
309 conclusions, and data developed by experts engaged by parties  
310 shall be freely discoverable unless a protective order is issued  
311 by the Commission.

312 (c) Discovery requests, regardless of how denominated,  
313 discovery responses, and transcripts of depositions shall not be  
314 filed with the Commission.

315 (d) Any reference in an applicable Rule of Civil Procedure  
316 to "the court" shall be considered a reference to the Commission.

317 (3) A party that objects to a discovery request shall file a  
318 motion to quash or modify the request in accordance with R746-1-  
319 301.

320 (4) An intervenor shall serve any request for discovery on  
321 the other parties to the docket.

322

323 **R746-1-601. Identification of Information Claimed to Be  
324 Confidential or Highly Confidential in Commission Proceedings.**

325 (1) A party to a docket may request that information  
326 provided to another party or included in the record be treated as  
327 confidential by:

328 (a)(i) in the paper filing, placing the information on  
329 yellow paper; and

330 (ii) in the electronic filing, highlighting the information  
331 in yellow; and

332 (b) including the following designation, as applicable, on  
333 each page containing confidential information:

334 (i) "CONFIDENTIAL - - SUBJECT TO PUBLIC SERVICE COMMISSION  
335 OF UTAH RULE 746-1-601"; or

336 (ii) "CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER".

337 (2)(a) A person who files or is requested to provide  
338 information that the person considers to be highly confidential  
339 may petition the Commission for an order granting additional  
340 protective measures.

341 (b) The petitioning party shall set forth:

342 (i) the particular basis for the claim;

343 (ii) the specific, additional protective measures requested;  
344 and

345 (iii) the reasonableness of the requested, additional  
346 protection.

347 (c) Any other party may oppose the petition or propose  
348 alternative protective measures.

349 (d) If the Commission grants a petition for additional  
350 protective measures, the party providing the highly confidential  
351 information shall:

352 (i)(A) in the paper filing, place the information on pink  
353 paper; and

354 (B) in the electronic filing, highlight the information in  
355 pink; and

356 (ii) include the following designation, as applicable, on  
357 each page containing highly confidential information:

358 (A) "HIGHLY CONFIDENTIAL - - SUBJECT TO PUBLIC SERVICE  
359 COMMISSION OF UTAH RULE 746-1-601"; or

360 (B) "HIGHLY CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER".

361 (3) A person who files with the Commission a document  
362 containing confidential or highly confidential information shall:

363 (a) file a redacted version for public access; and

364 (b) ensure that the line numbering and formatting in the  
365 redacted version match, as closely as practicable, that appearing  
366 in the unredacted version.

367

368 **R746-1-602. Persons Entitled to Review Confidential and Highly**  
369 **Confidential Information.**

370 (1)(a) Except as provided in this Subsection 602(2), the  
371 following persons are entitled to receive and review confidential  
372 and highly confidential information:

373 (i) Commission, including counsel and staff;

374 (ii) Division of Public Utilities, including counsel and  
375 staff;

376 (iii) Office of Consumer Services, including counsel and

377 staff;  
378 (iv) counsel for all parties, including, to the extent  
379 reasonably necessary:  
380 (A) paralegals;  
381 (B) administrative assistants; and  
382 (C) clerical staff;  
383 (v) persons designated by a party as an expert witness,  
384 including, to the extent reasonably necessary, the experts':  
385 (A) administrative assistants; and  
386 (B) clerical staff;  
387 (C) persons employed by the parties, to the extent  
388 reasonably necessary; and  
389 (vi) any person who signs a non-disclosure agreement  
390 substantially as follows: "I have reviewed Public Service  
391 Commission of Utah Rule 746-1-603 and/or the Protective Order  
392 entered by the Public Service Commission of Utah in Docket No. XX-  
393 XXX-XX with respect to the review and use of confidential  
394 information and agree to comply with the terms and conditions of  
395 the rule and/or Protective Order."  
396 (2) A person, including an expert who is employed or  
397 retained by a party, may not receive confidential or highly  
398 confidential information if, in performing the person's normal job  
399 functions, the person could use the information to the competitive  
400 disadvantage of the person providing the information.

401  
402 **R746-1-603. Treatment of Confidential and Highly Confidential**  
403 **Information.**

404 (1) A person who receives confidential or highly  
405 confidential information may not use or disclose the information  
406 except:  
407 (a) for the purpose of the proceeding in which it was  
408 obtained; or  
409 (b) pursuant to this Subsection 603(2), as required in  
410 response to:  
411 (i) interrogatories and other forms of discovery;  
412 (ii) administrative requests for information or documents;  
413 (iii) subpoenas;  
414 (iv) civil investigative demands; or  
415 (v) records requests under the Government Records Access and  
416 Management Act, Utah Code Title 63G, Chapter 2.  
417 (2) A person who is required by law to disclose confidential  
418 or highly confidential information shall, prior to providing the  
419 information:  
420 (a) give notice of the disclosure requirement, by telephone  
421 and in writing, to the person who first provided the information;  
422 and  
423 (b) cooperate with the person who first provided the

424 information to obtain a protective order or similar assurance of  
425 confidentiality.

426 (3) Notes made pertaining to, or as the result of, a review  
427 of confidential or highly confidential information shall be  
428 treated according to this Subsection R746-1-603.

429

430 **R746-1-604. Challenge to Claim of Confidentiality.**

431 (1) A party may challenge another party's claim of  
432 confidentiality by filing a motion for an in camera proceeding.

433 (2) If granted, the record of an in camera proceeding shall  
434 be marked, as applicable, substantially as follows:

435 (a) "CONFIDENTIAL--SUBJECT TO PUBLIC SERVICE COMMISSION OF  
436 UTAH RULE 746-1-604"; or

437 (b) "CONFIDENTIAL--SUBJECT TO PROTECTIVE ORDER".

438 (3)(a) An in camera hearing may be transcribed only upon:

439 (i) agreement of the parties; or

440 (ii) order of the Commission.

441 (b) Any transcription of an in camera hearing shall be  
442 separately bound, segregated, and withheld from any person not a  
443 party to the in camera hearing.

444 (4) Following an in camera hearing, if the Commission issues  
445 an order overturning a party's claim of confidentiality, the  
446 order:

447 (a) shall be subject to reconsideration; and

448 (b) shall go into effect no sooner than 10 days after  
449 issuance.

450

451 **R746-1-605 Receipt of Confidential and Highly Confidential**  
452 **Information into Evidence.**

453 (1)(a) A party that considers it necessary to discuss  
454 confidential information in a filing shall, to the extent  
455 possible, refer to the information by title, exhibit number, or  
456 other non-confidential description.

457 (b) A party that is not able to comply with this Subsection  
458 605(1)(a) shall:

459 (i) place the confidential information in a separate section  
460 of the filing;

461 (ii) mark the separate section "CONFIDENTIAL"; and

462 (iii) ensure that the confidential section of the filing is  
463 served only on:

464 (A) counsel of record or other designated representative of  
465 the party (one copy each) who has signed a nondisclosure  
466 agreement;

467 (B) counsel for the Division; and

468 (C) counsel for the Office.

469 (2)(a) A party that proposes to use another person's  
470 confidential or highly confidential information as evidence shall,

471 at least ten (10) days prior to use:  
472 (i) inform the owner of the information; and  
473 (ii) make a good faith effort to arrange circumstances that  
474 will allow the information to be used while keeping trade secrets  
475 and proprietary material confidential.  
476 (b) If efforts taken pursuant to this Subsection 605(2)(a)  
477 fail, the owner of the information shall move the Commission to  
478 segregate and withhold any portion of the record that would reveal  
479 trade secrets or proprietary information.  
480 (c) If the Commission grants a motion to segregate and  
481 withhold a record, the moving party shall mark the record, as  
482 applicable, substantially as follows:  
483 (i) "CONFIDENTIAL--SUBJECT TO PUBLIC SERVICE COMMISSION OF  
484 UTAH RULE 746-1-605"; or  
485 (ii) "CONFIDENTIAL--SUBJECT TO PROTECTIVE ORDER".  
486 (3) A party that considers it necessary to discuss a  
487 segregated confidential record during an adjudication shall move  
488 the Commission for an in camera hearing.  
489 (4)(a) A person, other than counsel, that obtains another  
490 person's confidential or highly confidential information during a  
491 proceeding shall, within 30 days after the docket is concluded:  
492 (i) return to the owner of the information all records in  
493 the party's possession that reference the confidential  
494 information; or  
495 (ii) certify that the information has been:  
496 (A) turned over, in its entirety, to the person's counsel;  
497 or  
498 (B) destroyed.  
499 (b) Counsel may retain confidential information as part of  
500 notes, workpapers, and other documents constituting attorney work  
501 product and subject to privilege.

502  
503 **R746-1-606. Commission Compliance with the Utah Government Records**  
504 **Access and Management Act.**

505 (1) A party's marking information as confidential or highly  
506 confidential does not ensure a classification of "private,"  
507 "protected," or "classified" under the Utah Government Records  
508 Access and Management Act, Utah Code § 63G-2-101 et seq.  
509 (2) A party whose confidential or highly confidential  
510 information is requested pursuant to Utah Code § 63G-2-101 et seq.  
511 shall collaborate with the Commission to determine how the  
512 information should be classified under the statute.

513  
514 **R746-1-701. Witness Subpoenas.**

515 (1) A party that wishes to subpoena a witness for hearing  
516 shall:  
517 (a) file the subpoena with the presiding officer at least 20



518 days prior to hearing;

519 (b) serve the subpoena on the witness pursuant to Utah Rule  
520 of Civil Procedure 45(b)(1); and

521 (c) pay the witness the statutory mileage and witness fees,  
522 unless the witness waives payment.

523 (2) Failure to obey the Commission's subpoena shall be  
524 considered contempt pursuant to Utah Code § 54-7-23(2).

525

526 **R746-1-702. Continuance of Scheduled Hearing.**

527 (1) A person requesting to continue a scheduled hearing  
528 shall demonstrate that:

529 (a) the request is supported by good cause; or

530 (b) all parties stipulate to the continuance.

531 (2) Unless otherwise ordered by the presiding officer, any  
532 objection to a request for continuance shall be filed no later  
533 than five days following the date on which the request is filed  
534 and served.

535

536 **R746-1-703. Closing a Hearing.**

537 A party that wishes to close a hearing shall comply with Utah  
538 Code § 54-3-21(4).

539

540 **R746-1-704. Public Witness Evidence.**

541 (1) A person not a party to a docket who does not petition  
542 for intervention may:

543 (a) file comments prior to hearing; or

544 (b) appear during the public witness portion of a hearing to  
545 provide unsworn testimony.

546 (2) A public witness may not conduct cross-examination.

547

548 **R746-1-705. Exhibits Offered at Hearing.**

549 (1) Parties shall:

550 (a) mark their exhibits before hearing;

551 (b) provide the original of each exhibit to the court  
552 reporter, if applicable; and

553 (c) provide a copy of each exhibit to:

554 (i) the presiding officer; and

555 (ii) each party.

556 (2) If an exhibit offered at hearing contains information  
557 claimed to be confidential or highly confidential, the party  
558 offering the exhibit shall comply with R746-1-601.

559

560 **R746-1-801. Reconsideration and Agency Review.**

561 (1) A person who challenges a finding of fact in a request  
562 for reconsideration or review shall marshal the record evidence  
563 that supports the challenged finding, as set forth in State v.  
564 Nielsen, 2014 UT 10, ¶¶ 33-44, 326 P.3d 645.

565           (2) Following the filing of a petition for reconsideration  
566 or review, opposing parties may file responsive memoranda or  
567 pleadings within 15 days.

568           (3) Proceedings on review shall be in accordance with Utah  
569 Code § 54-7-15.

570           (4) A petition for reconsideration pursuant to Utah Code §  
571 63G-4-302 is not required in order for a party to exhaust its  
572 administrative remedies prior to appeal.

PSC Rule 746-100\_changes tracked

1 R746. Public Service Commission, Administration.

2  
3 ~~R746-100. Practice and Procedures Governing Formal Hearings~~Public  
4 Service Commission Administrative Procedures Act Rule.

5  
6 ~~R746-1-1001. General Provisions and Authorization~~Title and  
7 Organization.

8 This rule R746-1 is:

9 (1) known as the "Public Service Commission Administrative  
10 Procedures Act Rule; and

11 (2) organized into the following Parts:

12 (a) Part 100: General provisions;

13 (b) Part 200: Complaints and pleadings;

14 (c) Part 300: Motions;

15 (d) Part 400: Pre-hearing briefs, comments, and testimony;

16 (e) Part 500: Discovery;

17 (f) Part 600: Confidential information;

18 (g) Part 700: Hearings;

19 (h) Part 900: Post-hearing proceedings.

20  
21 R746-1-102. Authority.

22 This rule is adopted under Utah Code § 54-1-1.

23 ~~E. Authorization This rule is authorized pursuant to Section~~  
24 ~~54-1-1 which requires the Commission to exercise its rulemaking~~  
25 ~~powers and Subsection 54-1-2.5 which establishes the requirements~~  
26 ~~for Commission procedure, including Hearings, Practice and~~  
27 ~~Procedure, Chapter 7 of Title 54.~~

28  
29 R746-1-10300-2. Definitions.

30 (1) "Applicant" is a party means any person:

31 (a) a party applying for a license, right, or authority; or

32 (b) requesting agency action from the Commission.

33 (2) "Commission" is the Public Service Commission of Utah.  
34 In appropriate context, it may include administrative law judge or  
35 presiding officer designated by the Commission defined at Utah Code  
36 § 54-2-1(3).

37 (3) "Complainant" is means a person who complains to the  
38 Commission of an act or omission of a person in violation of law,  
39 the rules, or an order of the Commission files a complaint with the  
40 Commission, pursuant to R746-1-201.

41 ~~D. "Consumer complaint" is a complaint of a retail customer~~  
42 ~~against a public utility.~~

43 (4) "Division" is means the Division of Public Utilities,  
44 State of Utah Department of Commerce.

45 ~~R746-100-3. Pleadings.~~

46 ~~A. Pleadings Enumerated Applications, petitions,~~  
47 ~~complaints, orders to show cause; and other traditional initiatory~~

48 ~~pleadings may be filed with the Commission. Traditional pleadings~~  
49 ~~will be considered requests for agency action, pursuant to Section~~  
50 ~~63C-4-201, concerning adjudicative proceedings.~~

51 ~~1. The following filings are not requests for agency action~~  
52 ~~or responses, pursuant to Sections 63C-4-201 and 63C-4-204:~~

53 ~~a. motions, oppositions, and similar filings in existing~~  
54 ~~Commission proceedings;~~

55 ~~b. informational filings which do not request or require~~  
56 ~~affirmative action, such as Commission approval.~~

57 (5)(a) "Initial pleading" means a request for agency action,  
58 which includes:

59 (i) an application;

60 (ii) a petition;

61 (iii) an order to show cause; and

62 (iv) any other filing reasonably calculated to initiate an  
63 adjudicative proceeding.

64 (b) "Initial pleading" does not include:

65 (i) a complaint;

66 (ii) a motion or similar filing in a docket; or

67 (iii) an informational filing that does not request or  
68 require Commission action.

69 ~~F. "Ex parte communication" means an oral or written~~  
70 ~~communication with a member of the Commission, administrative law~~  
71 ~~judge, or Commission employee who is, or may be reasonably~~  
72 ~~expected to be, involved in the decision making process relative~~  
73 ~~to the merits of a matter under adjudication unless notice and an~~  
74 ~~opportunity to be heard are given to each party. It shall not,~~  
75 ~~however, include a request for a status report on a proceeding~~  
76 ~~covered by these rules.~~

77 ~~G. "Formal proceeding" is a proceeding before the~~  
78 ~~Commission not designated informal by rule, pursuant to Section~~  
79 ~~63C-4-202.~~

80 ~~H. "Informal proceeding" is a proceeding so designated by~~  
81 ~~the Commission.~~

82 (6)J. "Interested person" is a person who may be affected by  
83 a proceeding before the Commission, but who does not seek  
84 intervention. An interested person may not participate in the  
85 proceedings except as a public witness, but shall receive copies  
86 of notices and orders in the proceeding means a person who requests  
87 to be placed on the service list for a docket.

88 ~~Q. "Public witness" is a person expressing interest in an issue~~  
89 ~~before the Commission but not entitled or not wishing to~~  
90 ~~participate as a party.~~

91 (7) "Intervener" is means a person who:

92 (a) timely files with the Commission a petition for  
93 intervention in a pending matter; and

94 (b) receives Commission approval to participate as a party

95 ~~is permitted to intervene in a proceeding before the Commission.~~

96 (8) "Office" ismeans the Office of Consumer Services, State  
97 of Utah Department of Commerce.

98 (9) "Party" is a participant in a proceeding defined by  
99 Subsection means a person who is entitled to participate in a  
100 proceeding, pursuant to Utah Code § 63G-4-103(1)(f).

101 (10) "Person" means an individual, corporation, partnership,  
102 association, governmental subdivision, or governmental agencyis  
103 defined at Utah Code § 54-2-2.

104 (11) "Petitioner" ismeans a person seeking relief from the  
105 Commission other than the issuance of a license, right, or  
106 authority.

107 (12) "Presiding officer" is a person conducting an  
108 adjudicative hearing, pursuant to Subsection 63G 4 103(1)(h)(i),  
109 and may be the entire Commission, one or more commissioners acting  
110 on the Commission's behalf, or an administrative law judge,  
111 presiding officer, or hearing officer appointed by the Commission.  
112 It may also include the Secretary of the Commission when  
113 performing duties identified in Section 54-1-7defined at Utah Code  
114 § 63G-4-103(1)(h).

115 (13)(a) "Proceeding" or "adjudicative proceeding" ismeans an  
116 action before the Commission, initiated either by a notice of  
117 agency action or request for agency action, pursuant to Section  
118 Utah Code § 63G-4-201.

119 (b) "Proceeding" does not include:—It is not

120 (i) an informal or preliminary inquiry or investigation  
121 undertaken by the Commission to determine whether a proceeding is  
122 warranted; nor

123 (ii) is it a rulemaking action pursuant to Title 63G, Chapter  
124 3, the Utah Administrative Rulemaking ActUtah Code § 63G-3-1 et  
125 seq.

126 (14) "Respondent" ismeans a person:

127 (a) against whom a notice of agency action or request for  
128 agency action is directed; or

129 (b) required, or permitted by statute, to responding to an  
130 application, petition, or other request for agency action.

131 (15) "Responsive pleading" means any rejoinder to an initial  
132 pleading, including:

133 (a) an answer;

134 (b) a protest or opposition; or

135 (c) other similar filingtraditional responsive pleadings may  
136 be filed with the Commission and will be considered responses,  
137 subject to the requirements of Section 63G-4-204.

138

139 **R746-1-104. Designation of Adjudicative Proceedings.**

140 (1) The following requests for agency action shall be  
141 adjudicated as informal proceedings:

- 142 (a) a complaint;  
143 (b) an unopposed application for a certificate of public  
144 convenience and necessity;  
145 (c) a request for acknowledgment or approval of a  
146 telecommunications utility's name change; and  
147 (d) a request for acknowledgment or approval of a merger,  
148 acquisition, or similar organizational restructuring that does not  
149 alter or affect the services provided by a telecommunications  
150 utility.

151 (2) A request for agency action not listed in this  
152 Subsection 104(1) shall be adjudicated as a formal proceeding.  
153 ~~A. Procedure Governed -- Sections 1 through 14 of this rule~~  
154 ~~shall govern the formal hearing procedures before the Public~~  
155 ~~Service Commission of Utah, Sections 15 and 16 shall govern~~  
156 ~~rulemaking proceedings before the Commission.~~  
157 ~~B. Consumer Complaints -- Consumer complaints may be converted to~~  
158 ~~informal proceedings, pursuant to Section 63G-4-202.~~

159  
160 **R746-1-105. Utah Rules of Civil Procedure.**

161 The Utah Rules of Civil Procedure and related case law are  
162 persuasive authority in Commission adjudications unless otherwise  
163 provided by:

- 164 (1) Title 63G, Chapter 4, Administrative Procedures Act; or  
165 (2) Utah Administrative code R746 et seq.

166 ~~C. No Provision in Rules -- In situations for which there is no~~  
167 ~~provision in these rules, the Utah Rules of Civil Procedure shall~~  
168 ~~govern, unless the Commission considers them to be unworkable or~~  
169 ~~inappropriate.~~

170 ~~D. Words Denoting Number and Gender -- In interpreting these~~  
171 ~~rules, unless the context indicates otherwise, the singular~~  
172 ~~includes the plural, the plural includes the singular, the present~~  
173 ~~or perfect tenses include future tenses, and the words of one~~  
174 ~~gender include the other gender. Headings are for convenience~~  
175 ~~only, and they shall not be used in construing any meaning.~~

176  
177 **R746-1-106. Computation of Time.**

178 Periods of time in Commission proceedings shall:  
179 (1) ~~The time within which an act shall be done shall be~~  
180 ~~computed by~~ Unless this Subsection 106(2) applies, period of time  
181 in Commission proceedings shall:

- 182 (a) ~~excluding~~ the first day of the act, event or default  
183 from which the time begins to run; and  
184 (b) ~~including~~ the last day unless it is Saturday, Sunday,  
185 or legal holiday, in which case the period runs until the end of  
186 the next day that is not a Saturday, Sunday, or legal holiday.  
187 (2) This Subsection 106(1) is superseded by any conflicting:  
188 (a) order of the Commission;

189 (b) statute; or  
190 (c) rule.

191  
192 **R746-1-107. Representation of Parties.**

193 ~~A. Taking Appearances — Parties shall enter their appearances~~  
194 ~~at the beginning of a hearing or when designated by the presiding~~  
195 ~~officer by giving their names and addresses and stating their~~  
196 ~~positions or interests in the proceeding. Parties shall, in~~  
197 ~~addition, fill out and submit to the Commission an appearance~~  
198 ~~slip, furnished by the Commission.~~

199 ~~A party~~B. Representation of Parties — Parties may:

200 (1) be represented by:

201 (a) an attorney licensed to practice in Utah; or

202 (b) an attorney licensed in a foreign state, pursuant to §

203 14-801 of the Utah Supreme Court rules of Professional Practice,

204 which is incorporated by reference when joined of record by an

205 attorney licensed in Utah; may also represent parties before the

206 Commission. Upon motion, reasonable notice to each party, and

207 opportunity to be heard, the Commission may allow an attorney

208 licensed in a foreign state to represent a party in an individual

209 matter based upon a showing that local representation would impose

210 an unreasonable financial or other hardship upon the party. The

211 Commission may, if it finds an irresolvable conflict of interest,

212 preclude an attorney or firm of attorneys, from representing more

213 than one party in a proceeding.

214 (2) represent oneself individually; or who is a party to a

215 proceeding, or

216 (3) if not an individual, represent itself through an

217 officer or employee of a party, may represent the principal's

218 interests in the proceeding.

219

220 **R746-1-108. Intervention.**

221 ~~Intervention — Persons wishing~~ A person who wishes to

222 ~~intervene in a proceeding for any purpose, including opposition to~~

223 ~~proposed agency action or a request for agency action filed by a~~

224 ~~party to a proceeding, shall do so in conformance~~ comply with

225 Section Utah Code § 63G-4-207.

226

227 **R746-109. Deviation from Procedural Rules.**

228 (1) A party may move t~~The Commission [may order deviation]~~to  
229 deviate from a specified procedural rule.

230 (2) The party making the motion to deviate has the burden to

231 demonstrate upon notice, opportunity to be heard and a showing

232 that the rule imposes an undue hardship which~~that~~ outweighs the

233 benefit(s) of the rule.

234

235 **R746-1-201. H. Consumer Complaints.**



236 (1) A person may file with the Commission a complaint  
237 against a public utility if the consumer has first:

238 (a) attempted to resolve the complaint with the utility's  
239 customer relations department; and

240 (b) reported the complaint to the Division for  
241 investigation.

242 (2) To file a complaint, a person shall:

243 (a) provide a concise and legible account of the facts and  
244 circumstances on the form provided by the Division; and

245 (b) evidence having served the complaint on the public  
246 utility, pursuant to R746-1-203(2)(b).

247 ~~1. Alternative dispute resolution, mediation procedures --~~  
248 ~~Before a proceeding on a consumer complaint is initiated before~~  
249 ~~the Commission, the Commission shall try to resolve the matter~~  
250 ~~through referral first to the customer relations department, if~~  
251 ~~any, of the public utility complained of and then to the Division~~  
252 ~~for investigation and mediation. Only after these resolution~~  
253 ~~efforts have failed will the Commission entertain a proceeding on~~  
254 ~~the matter.~~

255 ~~2. Request for agency action -- Persons requesting Commission~~  
256 ~~action shall be required to file a complaint in writing,~~  
257 ~~requesting agency action. The Commission shall not act on~~  
258 ~~illegible or incomplete complaints and shall return those~~  
259 ~~complaints to the complainant with instructions for correction or~~  
260 ~~completion.~~

261 ~~3. The Division of Public Utilities may participate in a~~  
262 ~~consumer complaint proceeding as determined by the Division or as~~  
263 ~~requested by the Commission.~~

264

265 **R746-1-202[00-3]. Title of Pleadings.**

266 ~~B. Docket Number and Title --~~

267 ~~1. Docket number -- Upon the filing of an initiatory~~  
268 ~~pleading, or upon initiation of a generic proceeding, the~~  
269 ~~Commission shall assign a docket number to the proceeding which~~  
270 ~~shall consist of the year in which the pleading was filed, a code~~  
271 ~~identifying the public utility appearing as applicant, petitioner,~~  
272 ~~or respondent, or generic code designation and another number~~  
273 ~~showing its numerical position among the filings involving the~~  
274 ~~utility or generic proceeding filed during the year.~~

275 ~~2. Headings and titles -- Pleadings shall bear a heading~~  
276 ~~substantially as follows:]~~

277 A person who files a pleading shall include the following  
278 information in the title:

279 (1)(a) name of the attorney preparing the pleading; or

280 (b) if no attorney is involved, name of the person signing  
281 the pleading;

282 (2) address and telephone number of the person identified in

- 283 this Subsection 202(1);  
 284 (3) nature of the request;  
 285 (4) description of the action or relief requested;  
 286 (5) type of pleading; and  
 287 (6) docket number, if known.

288  
 289 

---

TABLE

290  
 291 ~~Name of Attorney preparing or Signer of Pleading~~  
 292 ~~Address~~  
 293 ~~Telephone Number~~

294  
 295 

---

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

296  
 297  
 298 ~~In the Matter of the (nature ) Type of pleading~~  
 299 ~~of request) for (description )~~  
 300 ~~of action or relief requested) )~~  
 301 ~~\_\_\_\_\_ ) Docket number (if known)~~  
 302 ~~\_\_\_\_\_ )~~  
 303 ~~\_\_\_\_\_ )~~

304  
 305  
 306  
 307 **R746-1-203. Form of Complete Pleading Filing.**

308 In order to be considered complete, a filing other than a  
 309 complaint shall conform to the following requirements.

310 (1) The filing ~~pleading~~ shall be filed in both paper and  
 311 electronic formats.

312 (a) The paper format shall be:

313 (i) double-spaced on 8-1/2 by 11-inch paper;

314 (ii) typed ~~and~~ in a font of at least 12 points; and

315 (iii) if longer than five pages, printed on double-sided and  
 316 three-hole-punched paper.

317 (b) The electronic format shall be:

318 (i) presented as an functional and searchable electronic  
 319 word processing or spreadsheet document, as applicable, that is  
 320 substantially the same as the paper version filed;

321 (ii) filed by:

322 (A) e-mail or;

323 (B) compact disc; and

324 (iii) identified by an electronic file name that includes:

325 (A) the name of the person making the filing; and

326 (B) the type of filing.

327 (2) The filing shall:

328 (a) be signed, as applicable, by:

329 (i) the party;

- 330 (ii) the party's counsel; or  
331 (iii) other authorized representative of the party; and  
332 (b) include a certificate of service:  
333 (i) stating that a true and correct copy of the filing was  
334 served upon each of the parties;  
335 (ii) identifying the manner of service; and  
336 (iii) identifying the date of service.

337 ~~D. Certificate of Service -- a Certificate of Service must be~~  
338 ~~attached to all pleadings filed with the Commission, certifying~~  
339 ~~that a true and correct copy of the pleading was served upon each~~  
340 ~~of the parties in the manner and on the date specified. A filing~~  
341 ~~is not complete without this certificate of service.~~

342 ~~G. Signing of Pleadings -- Pleadings shall be signed by the~~  
343 ~~party, or by the party's attorney or other authorized~~  
344 ~~representative if the party is represented by an attorney or other~~  
345 ~~authorized representative, and shall show the signer's address.~~  
346 ~~The signature shall be considered a certification by the signer~~  
347 ~~that he has read the pleading and that, to the best of his~~  
348 ~~knowledge and belief, there is good ground to support it.~~

349 ~~E. Pleadings Containing Confidential and Highly Confidential~~  
350 ~~Information --~~

351 ~~2. Pleadings shall be presented for filing on paper 8 1/2 x 11~~  
352 ~~inches, shall include the docket number, if known, and shall be~~  
353 ~~dated and time stamped upon receipt by the Commission.~~

354 ~~3. Pleadings also shall be presented as an electronic word~~  
355 ~~processing document that is substantially the same as the paper~~  
356 ~~version filed, and may be transmitted electronically to the e-mail~~  
357 ~~address the Commission designates for such purposes or presented~~  
358 ~~in electronic media (i.e., compact disc (CD)), using a Commission-~~  
359 ~~approved format.~~

360 ~~5. Pleadings over five pages shall be double-sided and three-~~  
361 ~~hole punched.~~

362

363 **R746-1-204. Effective date of filing.**

364 (1) If filed with the Commission during regular business  
365 hours, a complete filing is effective on the date filed.

366 (2) If filed with the Commission after regular business  
367 hours, a complete pleading is effective on the next business day.

368 ~~6. A filing is not complete until the original and all required~~  
369 ~~copies -- both paper and electronic -- are provided to the~~  
370 ~~Commission in the form described. If an electronic document is~~  
371 ~~filed in Portable Document Format (PDF) and PDF is not the format~~  
372 ~~of the filing party's source document:~~

373 ~~a. the electronic document shall also be provided in its~~  
374 ~~original format; and~~

375 ~~b. the PDF document shall include footnote references~~  
376 ~~describing the name and location of the source document in the~~

377 ~~filed electronic media.~~

378 1. ~~Pleadings, including all accompanying documents,~~  
379 ~~containing information claimed to be confidential or highly~~  
380 ~~confidential, as described in R746-100-16, shall be filed in~~  
381 ~~accordance with R746-100-3(C) and shall conform to the following~~  
382 ~~additional requirements:~~

383 a. ~~The paper version of a pleading containing~~  
384 ~~confidential information shall be filed on yellow paper with the~~  
385 ~~confidential portion of the pleading denoted by shading,~~  
386 ~~highlighting, or other readily identifiable means. Both the paper~~  
387 ~~and the electronic versions presented for filing shall be~~  
388 ~~designated confidential in accordance with R746-100-16(A)(1)(b).~~

389 b. ~~The paper version of a pleading containing highly~~  
390 ~~confidential information shall be filed on pink paper with the~~  
391 ~~highly confidential portions of the pleadings denoted by shading,~~  
392 ~~highlighting, or other readily identifiable means. Both the paper~~  
393 ~~and electronic versions presented for filing shall be designated~~  
394 ~~highly confidential in accordance with R746-100-16(A)(1)(g).~~

395 e. ~~A non confidential version shall also be filed, in~~  
396 ~~both paper and electronic form, from which all confidential and~~  
397 ~~highly confidential information must be redacted. All copies of~~  
398 ~~this version shall be clearly labeled as "Non Confidential~~  
399 ~~Redacted Version."~~

400

401 **R746-1-205. Content of Initial Pleading.** ~~Pleadings filed with the~~  
402 ~~Commission An initial pleading shall include the following~~  
403 ~~information, to the extent it is known and applicable:~~

404 (1) the reference numbers, docket numbers, or other  
405 identifying symbols of relevant tariffs, rates, schedules,  
406 contracts, applications, rules, or similar matter or material;

407 (2)(a) the name of each participant for whom the filing is  
408 made; or

409 (b) if the filing is made for a group of participants, the  
410 name of the group, ~~if the name of each member of the group is set~~  
411 ~~forth in a previously filed document which is identified in the~~  
412 ~~filing being made;~~

413 (3) if a statute, rule, regulation, or other authority  
414 requires the Commission to act within a specific time period ~~for a~~  
415 ~~matter at issue,~~ a specific section of the pleading:

416 (a) located after the heading or caption;

417 (b) entitled "Proceeding Time Period"; and

418 (c) setting forth:

419 (i) a reference or citation to the statute, rule,  
420 regulation, or other authority;

421 (ii) the applicable time period; and

422 (iii) the expiration date of the applicable time period,  
423 identified by day, month, and year;

424 (4) the specific authorization or relief sought;  
425 (5) copies of, or references to, tariff or rate sheets  
426 relevant to the pleading;  
427 (6) the relevant facts, if not set forth in a previously  
428 filed document that is identified within the filing being made;  
429 ~~the name and address of each person against whom the complaint is~~  
430 ~~directed;~~  
431 (7) the position taken by the person filing the pleading,  
432 including the basis in fact and law for the position; and  
433 (8) the name, address, and telephone number of an individual  
434 who, with respect to a matter contained in the filing, represents  
435 the person for whom the filing is made; ~~and~~  
436 ~~— (9) additional information required to be included by~~  
437 ~~Section 63G-4-201, concerning commencement of adjudicative~~  
438 ~~proceedings, or other statute, rule, or order.~~  
439

440 **R746-1-206. Amendment of Complaint or Initial Pleading.**

441 (1) A party that has filed a complete and effective  
442 complaint or initial pleading may amend the filing. ~~Amendments~~  
443 ~~to Pleadings — The Commission may allow pleadings to be amended~~  
444 ~~or corrected at any time. Initiatory pleadings may be amended~~  
445 ~~without leave of the Commission at any time before:~~

446 (a) a responsive pleading has been filed; or  
447 (b) the time for filing the pleading has expired.

448 (2) If a defect in a pleading does not affect the  
449 substantial rights of the parties, it does not require amendment.  
450

451 ~~**Required Public Notice.** — When applying for original authority or~~  
452 ~~rate increase, the party seeking authority or requesting~~  
453 ~~Commission action shall publish notice of the filing or action~~  
454 ~~requested in the form and within the times as the Commission may~~  
455 ~~order and in a newspaper of general circulation in the area of the~~  
456 ~~state in which the parties most likely to be interested are~~  
457 ~~located.~~  
458

459 **R746-1-207. K. Responsive Pleadings.** ~~—~~

460 1. A response to a pleading or consumer complaint Responsive  
461 pleadings to applications, petitions, or requests for agency  
462 action shall be filed in accordance with Section Utah Code § 63G-  
463 4-204 unless the Commission establishes a different response  
464 deadline.

465 ~~2. Response and reply pleadings may be filed to pleadings other~~  
466 ~~than applications, petitions or requests for agency action.~~  
467

468 **R746-1-301. Motions.** ~~—~~ Motions may be submitted for the  
469 Commission's decision on either written or oral argument, and the  
470 filing of affidavits in support or contravention of the motion is

471 ~~permitted. If oral argument is sought, the party seeking oral~~  
472 ~~argument shall arrange a hearing date with the secretary of the~~  
473 ~~Commission and provide at least five days written notice to~~  
474 ~~affected parties, unless the Commission determines a shorter time~~  
475 ~~period is needed. Motions directed toward initiatory pleadings~~  
476 ~~shall be filed before a responsive pleading is due~~

477 Unless otherwise ordered by the Commission, briefing on a  
478 motion shall be as follows:

479 (1) Any response shall be filed within 30 days of the  
480 service date of the motion.

481 (2) Any reply shall be filed within 15 days of the service  
482 date of the response.

483 ~~; otherwise objections shall be raised in responsive pleadings.~~  
484 ~~Motions directed toward responsive pleadings shall be filed within~~  
485 ~~ten days of the service of the responsive pleading.~~

486 ~~Response or reply pleadings to other than applications, petitions~~  
487 ~~or requests for agency action shall be filed within 15 calendar~~  
488 ~~days and 10 calendar days, respectively, of the service date of~~  
489 ~~the pleading or document to which the response or reply is~~  
490 ~~addressed. Absent a response or reply, the Commission may presume~~  
491 ~~that there is no opposition.~~

492

493 **~~R746-100-4. Filing and Service.~~**

494 ~~A. Filing of Pleadings -- Pleadings shall be filed with the~~  
495 ~~Commission in the format described in R746-100-3(C), and the~~  
496 ~~number of original and paper copies shall be as specified at~~  
497 ~~<http://www.psc.utah.gov/filingrequirements.html>.~~

498 ~~B. Notice -- Notice shall be given in conformance with Section~~  
499 ~~63G-4-201.~~

500 ~~D. Times for Filing -- Responsive pleadings to requests for~~  
501 ~~agency action shall be filed with the Commission and served upon~~  
502 ~~opposing parties within 30 days after service of the request for~~  
503 ~~agency action or notice of request for agency action, which ever~~  
504 ~~was first received.~~

505

506 **~~R746-100-5. Participation.~~**

507 ~~Parties to a proceeding before the Commission, as defined in~~  
508 ~~Section 63G-4-103, may participate in a proceeding including the~~  
509 ~~right to present evidence, cross-examine witnesses, make argument,~~  
510 ~~written and oral, submit motions, and otherwise participate as~~  
511 ~~determined by the Commission. The Division and Office shall be~~  
512 ~~given full participation rights in any case.~~

513

514 **~~R746-100-9.~~**

515 ~~A. Prehearing Conferences -- Upon the Commission's motion or that~~  
516 ~~of a party, the presiding officer may, upon written notice to~~  
517 ~~parties of record, hold prehearing conferences for the following~~

518 ~~purposes:~~  
519 1. ~~formulating or simplifying the issues, including each~~  
520 ~~party's position on each issue;~~  
521 2. ~~obtaining stipulations, admissions of fact, and documents~~  
522 ~~which will avoid unnecessary proof;~~  
523 3. ~~arranging for the exchange of proposed exhibits or~~  
524 ~~prepared expert or other testimony, including a brief description~~  
525 ~~of the evidence to be presented and issues addressed by each~~  
526 ~~witness;~~  
527 4. ~~determining procedures to be followed at the hearing;~~  
528 5. ~~encouraging joint pleadings, exhibits, testimony and~~  
529 ~~cross-examination where parties have common interests, including~~  
530 ~~designation of lead counsel where appropriate;~~  
531 6. ~~agreeing to other matters that may expedite the orderly~~  
532 ~~conduct of the proceedings or of a settlement. Agreements reached~~  
533 ~~during the prehearing conference shall be recorded in an~~  
534 ~~appropriate order unless the participants stipulate or agree to a~~  
535 ~~statement of settlement made on the record.~~  
536 B. ~~Prehearing Briefs~~ — The Commission may require the filing of  
537 ~~prehearing briefs which shall conform to the format described in~~  
538 ~~R746 100 3(C) and may include:~~  
539 1. ~~the issues, and positions on those issues, being raised~~  
540 ~~and asserted by the parties;~~  
541 2. ~~brief summaries of evidence to be offered, including the~~  
542 ~~names of witnesses, exhibit references and issues addressed by the~~  
543 ~~testimony;~~  
544 3. ~~brief descriptions of lines of cross-examination to be~~  
545 ~~pursued.~~  
546 C. ~~Final prehearing conferences~~ — After all testimony has been  
547 ~~filed, the Commission may at any time before the hearing hold a~~  
548 ~~final prehearing conference for the following purposes:~~  
549 1. ~~determine the order of witnesses and set a schedule for~~  
550 ~~witnesses' appearances, including times certain for appearances of~~  
551 ~~out-of-town witnesses;~~  
552 2. ~~delineate scope of cross-examination and set limits~~  
553 ~~thereon if necessary;~~  
554 3. ~~identify and prenumber exhibits.~~

555  
556 **R746-1-401. Pre-hearing Briefs, Comments, and Testimony - General**  
557 **Requirements.**

558 (1) ~~Except in the case of a consumer complaint, parties to~~  
559 ~~a docket shall file briefs, comments, direct, rebuttal, and~~  
560 ~~surrebuttal testimony, as applicable, as required in the~~  
561 ~~Commission's scheduling order prior to hearing.~~

562 (2) Testimony Pre-hearing filings and accompanying exhibits  
563 shall:

564 — (a) ~~be filed by deadlines set in the presiding officer's~~

565 ~~scheduling order;~~  
566 ~~\_\_\_\_\_ (b) be filed in electronic PDF format;~~  
567 ~~\_\_\_\_\_ (c)(a) utilize a sequential line numbering system; and~~  
568 ~~\_\_\_\_\_ (b) be filed in both paper and electronic formats.~~  
569 ~~\_\_\_\_\_ (3) The paper format shall conform to the requirements set~~  
570 ~~forth in R746-1-203(1)(a).~~

571 ~~\_\_\_\_\_ (4) The electronic format shall:~~  
572 ~~\_\_\_\_\_ (a) conform to the requirements set forth in R746-1-~~  
573 ~~203(1)(b); and~~  
574 ~~\_\_\_\_\_ (b) as to testimony, be identified by an electronic file~~  
575 ~~name including the following:~~  
576 ~~4. In electronic pleadings, each file shall be identified by an~~  
577 ~~electronic file name that includes at least the following, if~~  
578 ~~applicable to the specific file:~~  
579 ~~\_\_\_\_\_ (i) the word "direct," "rebuttal" or "surrebuttal," as~~  
580 ~~applicable;~~  
581 ~~\_\_\_\_\_ (ii) the last name of the witness;~~  
582 ~~\_\_\_\_\_ (iii) the name of the party on whose behalf the witness~~  
583 ~~offers testimony; and~~

584 ~~\_\_\_\_\_ (iv) as applicable, the word "exhibit" or "workpapers,"~~  
585 ~~followed by any applicable identification number or letter.~~  
586 ~~\_\_\_\_\_ (5) If an exhibits accompanying pre-hearing testimony~~  
587 ~~utilizes any embedded formula or algorithm, it shall be filed in~~  
588 ~~an electronic format that allows the embedded data to be accessed.~~  
589 ~~If an exhibit contains a formula or algorithm for calculation, the~~  
590 ~~party offering the exhibit shall file an electronic version in~~  
591 ~~which the formula or algorithm can be accessed.~~

592  
593 **R746-1-402. Pre-hearing Testimony - Inclusion in Record.**

594 ~~\_\_\_\_\_ (1)(a) A party may move the Commission to accept pre-~~  
595 ~~filed hearing testimony into evidence without having it read under~~  
596 ~~oath.~~

597 ~~\_\_\_\_\_ (b) Any such motion shall be subject to objection and~~  
598 ~~argument.~~  
599 ~~If a witness's testimony has been reduced to writing and filed~~  
600 ~~with the Commission before the hearing, in conformance with R746-~~  
601 ~~100-3(C), at the discretion of the Commission, the testimony may~~  
602 ~~be placed on the record without being read into the record; if~~  
603 ~~adverse parties shall have been served with, or otherwise have had~~  
604 ~~access to, the prefiled, written testimony for a reasonable time~~  
605 ~~before it is presented. Except upon a finding of good cause, a~~  
606 ~~reasonable amount of time shall be at least ten days. The~~  
607 ~~testimony shall have line numbers inserted at the left margin and~~  
608 ~~shall be authenticated by affidavit of the witness. To aid in the~~  
609 ~~identification of text and the examination of witnesses, written~~  
610 ~~testimony shall have each line of written text numbered~~  
611 ~~consecutively throughout the entire written testimony. Internal~~



612 ~~charts, exhibits or other similar displays included within or~~  
613 ~~attached to written testimony need not be included within the~~  
614 ~~document's internal line numbering. If admitted, the testimony~~  
615 ~~shall be marked and incorporated into the record as an exhibit.~~

616 (2) ~~Pre-filed~~hearing testimony that is entered into evidence  
617 shall be subject Parties shall have full opportunity to cross-  
618 examinatione the witness on the testimony. Unless the Commission  
619 orders otherwise, parties shall have witnesses present summaries  
620 of prefiled testimony orally at the hearing. Witnesses may be  
621 required to reduce their summaries to writing and either file them  
622 with their prefiled testimony or deliver them to parties of record  
623 before or at the hearing. At the hearing, witnesses shall read  
624 their summaries into the record. Opposing parties may cross-

625 examine both on the original prefiled testimony and the summaries.  
626 H. ~~Joint Exhibits~~ -- Both narrative and numerical joint exhibits,  
627 detailing each party's position on each issue, shall be filed with  
628 the Commission before the hearing. These joint exhibits shall:

629 a. ~~be updated throughout the hearing;~~  
630 b. ~~depict the final positions of each party on each issue~~  
631 ~~at the end of the hearing; and~~

632 c. ~~be in conformance with R746 100 3(C).~~

633 e. ~~Exhibits shall conform to the format described in~~  
634 ~~R746 100 3(C) and be double sided and three hole punched. They~~  
635 ~~shall also be adequately footnoted and if appropriate, accompanied~~  
636 ~~by either narrative or testimony which adequately explains the~~  
637 ~~following: Explicit and detailed sources of the information~~  
638 ~~contained in the exhibit; methods used in statistical~~  
639 ~~compilations, including explanations and justifications;~~  
640 ~~assumptions, estimates and judgments, together with the bases,~~  
641 ~~justifications and results; formulas or algorithms used for~~  
642 ~~calculations, together with explanations of inputs or variables~~  
643 ~~used in the calculations. An exhibit offered by a witness shall~~  
644 ~~also be presented as an electronic document, an exact copy of the~~  
645 ~~paper version, using a format previously approved by the~~  
646 ~~Commission.~~

647

648 **R746-1-501[100-8]. Discovery.**

649 (1) Parties shall attempt to complete informal discovery  
650 through:A. ~~Informal discovery~~ -- The Commission encourages  
651 parties to exchange information informally. Informational queries  
652 termed "

653 (a) data requests;" which have been typically used by  
654 parties practicing before the Commission may include

655 (b) written interrogatories;

656 (c) requests for admission; and

657 (d) requests for production of documents and other records  
658 as those terms are used in the Utah Rules of Civil Procedure.

659 ( ) A party that objects to a discovery request shall file a  
660 motion to quash or modify the request.

661 ( ) An intervener shall file any request for discovery on the  
662 other parties to the docket. ~~Informal discovery is appropriate~~  
663 ~~particularly with respect to the clarification of pre-filed~~  
664 ~~testimony and exhibits before hearing so as to avoid unnecessary~~  
665 ~~on-the-record cross-examination. The Commission may require an~~  
666 ~~informal exchange of information as it judges appropriate. The~~  
667 ~~Commission, on its own motion or the motion of a party, may~~  
668 ~~require the parties to participate in an informal meeting to~~  
669 ~~exchange information informally and otherwise simplify issues and~~  
670 ~~expedite the proceeding.~~

671 (2) If a party considers informal discovery pursuant to this  
672 Subsection 501(1) to be insufficient, the party may move the  
673 Commission for formal discover according to B. Formal Discovery  
674 Discovery shall be made in accordance with Rules 26 through 37, of  
675 the Utah Rules of Civil Procedure, with the following exceptions  
676 and modifications:-:

677 ~~C. Exceptions and Modifications~~

678 ~~1. (a)(i) If no responsive pleading is required in a~~  
679 ~~proceeding, parties may begin discovery immediately upon the~~  
680 ~~filing and service of an initiatory pleading.~~

681 ~~(ii) If a responsive pleading is required, discovery~~  
682 ~~shall not begin until ten days after the time limit for filing the~~  
683 ~~responsive pleading.~~

684 ~~2. (b) Rule 26(a)(4), of the Utah Rules of Civil Procedure,~~  
685 ~~which restricts discovery, shall not apply., and t The~~  
686 ~~opinions, conclusions, and data developed by experts engaged by~~  
687 ~~parties shall be freely discoverable unless a protective order is~~  
688 ~~issued by the Commission.~~

689 ~~3. At any stage of a proceeding, the Commission may, on its own~~  
690 ~~motion or that of a party, convene a conference of the parties to~~  
691 ~~establish times for completion of discovery, the scope of,~~  
692 ~~necessity for, and terms of, protective orders, and other matters~~  
693 ~~related to discovery.~~

694 ~~4. Formal discovery shall be initiated by an appropriate~~  
695 ~~discovery request served on the party or person from whom~~  
696 ~~discovery is sought.~~

697 (c) Discovery requests, regardless of how denominated,  
698 discovery responses, and transcripts of depositions shall not be  
699 filed with the Commission unless the Commission orders otherwise.

700 ~~5. (d) In the Any reference in an applicable Rules of Civil~~  
701 ~~Procedure, reference to "the court" shall be considered a~~  
702 ~~reference to the Commission.~~

703 (3) A party that objects to a discovery request shall file a  
704 motion to quash or modify the request in accordance with R746-1-  
705 301.

706 (4) An intervenor shall serve any request for discovery on  
707 the other parties to the docket

708

709 **R746-1-601[100-16]. [Use of] Identification of Information**  
710 **Claimed to Be Confidential or Highly Confidential in Commission**  
711 **Proceedings.**

712 (1) A party to a docket may request that information  
713 provided to another party or included in the record be treated as  
714 confidential by:

715 (a)(i) in the paper filing, placing the information on  
716 yellow paper; and

717 (ii) in the electronic filing, highlighting the information  
718 in yellow; and

719 (b) including the following designation, as applicable, on  
720 each page containing confidential information:

721 (i) "CONFIDENTIAL - - SUBJECT TO UTAH PUBLIC SERVICE  
722 COMMISSION RULE 746-1-601"; or

723 (ii) "CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER".

724 (2)(a) A person who files or is requested to provide  
725 information that the person considers to be highly confidential  
726 may

727 ~~f. Additional protective measures. To the extent a Providing~~  
728 ~~Party reasonably claims that additional protective measures,~~  
729 ~~beyond those required under this rule for Confidential~~  
730 ~~Information, are warranted for certain highly proprietary, highly~~  
731 ~~sensitive or highly confidential material (Highly Confidential~~  
732 ~~Information), the Providing Party shall promptly inform the~~  
733 ~~requester (Requesting Party) of the claimed highly sensitive~~  
734 ~~nature of identified material and the additional protective~~  
735 ~~measures requested by the Requesting Party. If the Providing Party~~  
736 ~~and Requesting Party are unable to promptly reach agreement on the~~  
737 ~~treatment of Highly Confidential Information, the Providing Party~~  
738 ~~shall petition the Commission for an order granting additional~~  
739 ~~protective measures.~~

740 (b) The petitioning party ~~The Providing Party shall set~~  
741 forth:

742 (i) the particular basis for the claim;

743 (ii) the specific, additional protective measures requested;  
744 and

745 (iii) the reasonableness of the requested, additional  
746 protection.

747 ~~(c) A Requesting Party and any other party may respond to~~  
748 ~~the petition and oppose the petition or propose alternative~~  
749 ~~protective measures to those requested by the Providing Party.~~  
750 ~~Disputes between the parties shall be resolved by the Commission.~~

751 (d) If the Commission grants a petition for additional  
752 protective measures, the party providing the highly confidential

753 information shall:

754 (i)(A) in the paper filing, place the information on pink  
755 paper; and

756 (B) in the electronic filing, highlight the information in  
757 pink; and

758 (ii) include the following designation, as applicable, on  
759 each page containing highly confidential information:

760 (A) "HIGHLY CONFIDENTIAL - - SUBJECT TO UTAH PUBLIC SERVICE  
761 COMMISSION RULE 746-1-601"; or

762 (B) "HIGHLY CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER".

763 (3) A person who files with the Commission a document  
764 containing confidential or highly confidential information shall:

765 (a) file a redacted version for public access; and

766 (b) ensure that the line numbering and formatting in the  
767 redacted version match, as closely as practicable, that appearing  
768 in the unredacted version.

769

770 **R746-1-602. Persons Entitled to Review Confidential and Highly**  
771 **Confidential Information.**

772 (1)(a) Except as provided in this Subsection 602(2), the  
773 following persons are entitled to receive and review confidential  
774 and highly confidential information:

775 (i) Commission, including counsel and staff;

776 (ii) Division of Public Utilities, including counsel and  
777 staff;

778 (iii) Office of Consumer Services, including counsel and  
779 staff;

780 (iv) counsel for all parties, including, to the extent  
781 reasonably necessary:

782 (A) paralegals;

783 (B) administrative assistants; and

784 (C) clerical staff;

785 (v) persons designated by a party as an expert witness,  
786 including, to the extent reasonably necessary, the experts':

787 (A) administrative assistants; and

788 (B) clerical staff;

789 (C) persons employed by the parties, to the extent  
790 reasonably necessary; and

791 (vi) any person who signs a non-disclosure agreement

792 substantially as follows: "I have reviewed Public Service  
793 Commission of Utah Rule 746-100-16 and/or the Protective Order

794 entered by the Public Service Commission of Utah in Docket No. XX-  
795 XXX-XX with respect to the review and use of confidential

796 information and agree to comply with the terms and conditions of  
797 the rule and/or Protective Order."

798 (2) A person, including an expert who is employed or  
799 retained by a party, may not receive confidential or highly

800 confidential information if, in performing the person's normal job  
801 functions, the person could use the information to the competitive  
802 disadvantage of the person providing the information.  
803

804 **R746-1-603. Treatment of Confidential and Highly Confidential**

805 **Information.**, ~~documents and material submitted or requested in or~~  
806 ~~relating to any Commission proceeding which is claimed to be~~  
807 ~~confidential will be treated as follows:~~

808 1. a. ~~Nature of Confidential Information. A person (Providing~~  
809 ~~Party) required or requested to provide documents, data,~~  
810 ~~information, studies, and other materials of a sensitive,~~  
811 ~~proprietary or confidential nature (Confidential Information) to~~  
812 ~~the Commission or to any party in connection with a Commission~~  
813 ~~proceeding may request protection of such information in~~  
814 ~~accordance with the terms of this rule. Confidential treatment~~  
815 ~~shall be requested only to the extent a good faith reasonable~~  
816 ~~basis exists for claiming that specific information constitutes a~~  
817 ~~trade secret or is otherwise of such a highly sensitive or~~  
818 ~~proprietary nature that public disclosure would be inappropriate.~~  
819 ~~Confidential treatment shall be requested narrowly as to only that~~  
820 ~~specific information for which protection is reasonably required.~~  
821 b. ~~Identification of Confidential Information. All documents,~~  
822 ~~data, information, studies and other materials filed in~~  
823 ~~conjunction with a Commission proceeding, made available to~~  
824 ~~proceeding participants, whether made available pursuant to~~  
825 ~~interrogatories, requests for information, subpoenas, depositions,~~  
826 ~~or other modes of discovery or otherwise, that are claimed to be~~  
827 ~~Confidential Information, shall be furnished pursuant to the terms~~  
828 ~~of this rule or any superseding Protective Order, and shall be~~  
829 ~~treated by all persons accorded access thereto pursuant to this~~  
830 ~~rule or Protective Order, and shall neither be used nor disclosed~~  
831 ~~by any recipient thereof~~

832 (1) A person who receives confidential or highly  
833 confidential information may not use or disclose the information  
834 except:

835 (a) for the purpose of the proceeding in which it was  
836 obtained; or

837 (b) pursuant to this Subsection 603(2), as required in  
838 response to:

839 (i) interrogatories and other forms of discovery;

840 (ii) administrative requests for information or documents;

841 (iii) subpoenas;

842 (iv) civil investigative demands; or

843 (v) records requests under the Government Records Access and  
844 Management Act, Utah Code Title 63G, Chapter 2.

845 (2) A person who is required by law to disclose confidential  
846 or highly confidential information shall, prior to providing the

847 information:

848 (a) give notice of the disclosure requirement, by telephone  
849 and in writing, to the person who first provided the information;  
850 and

851 (b) cooperate with the person who first provided the  
852 information to obtain a protective order or similar assurance of  
853 confidentiality.

854 (3) Notes made pertaining to or as the result of a review of  
855 confidential or highly confidential information shall be treated  
856 according to this Subsection R746-1-603.

857  
858 ~~and solely in accordance with this rule or superseding Protective~~  
859 ~~Order. All material claimed to be Confidential Information shall~~  
860 ~~be so marked by the person producing it by stamping or noting the~~  
861 ~~same with a designation substantially as follows: "CONFIDENTIAL—~~  
862 ~~—SUBJECT TO UTAH PUBLIC SERVICE COMMISSION RULE 746-100-16" or~~  
863 ~~"CONFIDENTIAL—SUBJECT TO PROTECTIVE ORDER" or "CONFIDENTIAL—~~  
864 ~~SUBJECT TO PROTECTIVE ORDER IN DOCKET NO. XX XXX XX (reflecting~~  
865 ~~the appropriate docket number)." All copies of documents so~~  
866 ~~marked shall be made on yellow paper.~~

867 e. ~~Line Numbering in Redacted Documents. Parties shall ensure~~  
868 ~~that line numbering in any redacted version of a document shall~~  
869 ~~conform to and retain the general formatting and line numbering~~  
870 ~~used in the unredacted version of the document. Individuals~~  
871 ~~providing electronic documents to the Commission should file both~~  
872 ~~a confidential and non confidential version each clearly marked as~~  
873 ~~such. For purposes hereof, notes made pertaining to or as the~~  
874 ~~result of a review of Confidential Information shall be considered~~  
875 ~~Confidential Information and subject to the terms of this rule.~~

876 d. ~~Use of Confidential Information and Persons Entitled to~~  
877 ~~Review. The Commission, Division of Public Utilities, and Office~~  
878 ~~of Consumer Services shall be provided with Confidential~~  
879 ~~Information and may use the Confidential Information as these~~  
880 ~~agencies deem necessary to perform their statutory functions,~~  
881 ~~provided they shall protect the confidentiality of the information~~  
882 ~~as required by Utah law. Other than these state agencies, all~~  
883 ~~Confidential Information made available pursuant to this rule~~  
884 ~~shall be given solely to counsel for the participants (which may~~  
885 ~~include counsels' paralegals, administrative assistants and~~  
886 ~~clerical staff to the extent reasonably necessary for performance~~  
887 ~~of work on the matter), and shall not be used nor disclosed except~~  
888 ~~for the purpose of the proceeding in which they are provided and~~  
889 ~~in accordance with this rule; provided, however, that access to~~  
890 ~~any specific Confidential Information may be authorized by~~  
891 ~~counsel, solely for the purpose of the proceeding, to those~~  
892 ~~persons indicated by the participants as being their experts in~~  
893 ~~the matter (including such experts' administrative assistants and~~

894 clerical staff, and persons employed by the participants, to the  
895 extent reasonably necessary for performance of work on the  
896 matter). Persons designated as experts shall not include persons  
897 employed by the participants who could use the information in  
898 their normal job functions to the competitive disadvantage of the  
899 person providing the Confidential Information. The Commission,  
900 the Division of Public Utilities, and the Office of Consumer  
901 Services, and their respective counsel and staff, pursuant to the  
902 applicable provisions of Title 54, Utah Code Ann., the Rules of  
903 Civil Procedure and the Rules of the Commission, may have access  
904 to any Confidential Information made available pursuant to this  
905 rule or Protective Order and shall be bound by the terms of this  
906 rule, except as otherwise stated herein and except for the  
907 requirement of signing a nondisclosure agreement. Further,  
908 nothing herein shall prevent disclosure as required by law  
909 pursuant to interrogatories, administrative requests for  
910 information or documents, subpoena, civil investigative demand or  
911 similar process, provided, however, that the person being required  
912 to disclose Confidential Information shall promptly give prior  
913 notice by telephone and written notice of such requirement of  
914 disclosure by electronic mail facsimile and overnight mail to the  
915 person that provided such Confidential Information, addressed to  
916 the providing person and attorneys of record for such person, so  
917 that the person that provided the Confidential Information may  
918 seek appropriate restrictions on disclosure or an appropriate  
919 protective order. The disclosing person will not oppose action  
920 by, and will cooperate with the person that provided the  
921 Confidential Information to obtain an appropriate protective order  
922 or other reliable assurance that confidential treatment will be  
923 accorded the Confidential Information.

924 e. Nondisclosure Agreement. Prior to giving or obtaining access  
925 to Confidential Information, as contemplated in (1)(b) above,  
926 counsel or any experts shall agree in writing to comply with and  
927 be bound by this rule and any Protective Order. Confidential  
928 Information shall not be disclosed to any person who has not  
929 signed a Nondisclosure Agreement in the form which is provided  
930 below or referenced in the Protective Order. The Nondisclosure  
931 Agreement shall require the person to whom disclosure is to be  
932 made to read a copy of this rule and any applicable Protective  
933 Order and to certify in writing that he or she has reviewed the  
934 same and has consented to be bound by the terms. The agreement  
935 shall contain the signatory's full name, permanent address and  
936 employer, and the name of the person with whom the signatory is  
937 associated. Such agreement shall be delivered to the providing  
938 person and counsel for the providing person prior to the expert  
939 gaining access to the Confidential Information.

940 — The Nondisclosure Agreement may be in the following form:

941 ~~—— "Nondisclosure Agreement. I have reviewed Public Service~~  
942 ~~Commission of Utah Rule 746 100 16 and/or the Protective Order~~  
943 ~~entered by the Public Service Commission of Utah in Docket No. XX-~~  
944 ~~XXX-XX with respect to the review and use of confidential~~  
945 ~~information and agree to comply with the terms and conditions of~~  
946 ~~the rule and/or Protective Order." Thereafter there shall be lines~~  
947 ~~upon which shall be placed the individual's signature, the typed~~  
948 ~~or printed name of the individual, identification or name of the~~  
949 ~~individual's employer or firm employing the individual (if any),~~  
950 ~~the business address for the individual, identification or name of~~  
951 ~~the party in the proceeding with which the individual is~~  
952 ~~associated, and the date the nondisclosure agreement is executed~~  
953 ~~by the individual.~~

954 ~~g. Identification of Highly Confidential Information. All~~  
955 ~~documents, data, information, studies and other materials filed in~~  
956 ~~conjunction with a Commission proceeding, made available to~~  
957 ~~proceeding participants, whether made available pursuant to~~  
958 ~~interrogatories, requests for information, subpoenas, depositions,~~  
959 ~~or other modes of discovery or otherwise, that are claimed to be~~  
960 ~~Highly Confidential, shall be furnished pursuant to the terms of~~  
961 ~~this rule or any superceding Protective Order, and shall be~~  
962 ~~treated by all persons accorded access thereto pursuant to this~~  
963 ~~rule or Protective Order, and shall neither be used nor disclosed~~  
964 ~~by any recipient thereof except for the purpose of the proceeding~~  
965 ~~in which it was obtained and solely in accordance with this rule~~  
966 ~~or superceding Protective Order. All material claimed to be~~  
967 ~~Highly Confidential shall be so marked by the person producing it~~  
968 ~~by stamping or noting the same with a designation substantially as~~  
969 ~~follows: "HIGHLY CONFIDENTIAL SUBJECT OF UTAH PUBLIC SERVICE~~  
970 ~~COMMISSION RULE 746 100 16," "HIGHLY CONFIDENTIAL SUBJECT TO~~  
971 ~~PROTECTIVE ORDER," or "HIGHLY CONFIDENTIAL SUBJECT TO PROTECTIVE~~  
972 ~~ORDER IN DOCKET NO. XX-XXX-XX (reflecting the appropriate docket~~  
973 ~~number)." All copies of documents so marked shall be made on pink~~  
974 ~~paper.~~

975  
976 **R746-1-604. Challenge to Claim of Confidentiality.**

977 (1) A party may challenge another party's claim of  
978 confidentiality by filing a motion for an in camera proceeding.

979 2. a. Challenge to Confidentiality or Proposed Additional  
980 Protective Measures. This rule establishes a procedure for the  
981 expeditious handling of Confidential Information; it shall not be  
982 construed as an agreement, or ruling on the confidentiality of any  
983 document.

984 b. In the event that persons are unable to agree that certain  
985 documents, data, information, studies, or other matters constitute  
986 Confidential Information or Highly Confidential Information  
987 referred to in (A)(1)(e) above, or in the event that persons are



988 ~~unable to agree on the appropriate treatment of Highly~~  
989 ~~Confidential Information, the person objecting to the~~  
990 ~~classification as Confidential Information or the person claiming~~  
991 ~~Highly Confidential Information and the need for additional~~  
992 ~~protective measures shall forthwith submit the disputes to the~~  
993 ~~Commission for resolution.~~  
994 ~~e. Any person at any time upon at least ten (10) days prior~~  
995 ~~notice, when practicable, may seek by appropriate pleading, to~~  
996 ~~have documents that have been designated as Confidential~~  
997 ~~Information or Highly Confidential Information, or which were~~  
998 ~~accepted into the sealed record in accordance with this rule or a~~  
999 ~~Protective Order, removed from the protective requirements of this~~  
1000 ~~rule or the Protective Order, or from the sealed record and placed~~  
1001 ~~in the public record. If the confidential, or proprietary nature~~  
1002 ~~of this information is challenged, resolution of the issue shall~~  
1003 ~~be made by the Commission after proceedings which shall be~~  
1004 ~~conducted under circumstances such that only those persons duly~~  
1005 ~~authorized to have access to such confidential matter shall be~~  
1006 ~~present.~~  
1007 (2) If granted, the record of such an in camera proceeding  
1008 shall be marked, as applicable, substantially as follows:  
1009 (a) "CONFIDENTIAL--SUBJECT TO RULE 746-1-604"; or  
1010 (b) "CONFIDENTIAL--SUBJECT TO PROTECTIVE ORDER".~~or~~  
1011 ~~"CONFIDENTIAL -- SUBJECT TO PROTECTIVE ORDER IN DOCKET NO. XX-XXX-~~  
1012 ~~XX (reflecting the appropriate docket number)" unless the~~  
1013 ~~Commission determines, and so provides by order, that such marking~~  
1014 ~~need not occur.~~  
1015 (3)(a) An in camera hearing may be transcribed ~~It shall be~~  
1016 ~~transcribed only upon:~~  
1017 (i) agreement of the parties; or  
1018 (ii) order of the Commission.  
1019 (b) Any transcription, and in that event of an in camera  
1020 hearing shall be separately bound, segregated, sealed, and  
1021 withheld from inspection by any person not a party to the in  
1022 camera hearing.  
1023 (4) Following an in camera hearing, if the Commission issues  
1024 an order overturning a party's claim of confidentiality, the  
1025 order:  
1026 (a) shall be subject to reconsideration; and  
1027 (b) shall go into effect no sooner than 10 days after  
1028 issuance.~~bound by the terms of this rule or Protective Order,~~  
1029 ~~unless and until released from the restrictions of this rule or~~  
1030 ~~Protective Order, either through agreement of the parties, or~~  
1031 ~~after notice to the parties and hearing, pursuant to an order of~~  
1032 ~~the Commission. In the event the Commission should rule in~~  
1033 ~~response to such a pleading that any information should be removed~~  
1034 ~~from the protective requirements of this rule or Protective Order,~~

1035 ~~or from the protection of the sealed record, such order of the~~  
1036 ~~Commission shall not be effective for a period of ten (10) days~~  
1037 ~~after entry of the order.~~

1038

1039 **R746-1-605 Receipt of Confidential and Highly Confidential**  
1040 **Information into Evidence.**

1041 (1)(a) A party that considers it necessary to discuss  
1042 confidential information in a filing shall, to the extent  
1043 possible, ~~4. Use in Proceedings. Where reference to~~  
1044 ~~Confidential Information is required in pleadings, cross-~~  
1045 ~~examinations, briefs, arguments, or motions, it shall be by~~  
1046 ~~citation of refer to the information by title, exhibit number, or~~  
1047 ~~other nonconfidential description.~~

1048 (b) A party that is not able to comply with this Subsection  
1049 605(1)(a) ~~Any further use of, or substantive references to~~  
1050 ~~Confidential Information shall:~~

1051 (i) place the confidential information in a separate section  
1052 of the filing;

1053 (ii) mark the separate section ~~pleading, brief, or document~~  
1054 ~~and submitted "UNDER SEAL" "CONFIDENTIAL"; and~~

1055 (iii) ensure that the ~~sealed~~ confidential section of the  
1056 filing ~~. This sealed section shall be is served only on:~~

1057 (A) counsel of record or other designated representative of  
1058 the party (one copy each) who ~~have~~ has signed a nondisclosure  
1059 agreement;

1060 (B) counsel for the Division; and

1061 (C) ~~counsel for the Office. of Public Utilities and Office~~  
1062 ~~of Consumer Services. All the protections afforded in this rule~~  
1063 ~~apply to materials prepared and distributed under this paragraph.~~

1064 (2)(a) A party that proposes to use another person's  
1065 confidential or highly confidential information as evidence shall,  
1066 at least ten (10) days prior to use:

1067 ~~of or substantive reference to any Confidential Information as~~  
1068 ~~evidence, if practicable, the person intending to use such~~  
1069 ~~Confidential Information shall~~

1070 (i) inform the owner of the information; and  
1071 ~~that intention known to the providing person. The requesting~~  
1072 ~~person and the providing person shall~~

1073 (ii) make a good faith effort to arrange circumstances that  
1074 will allow the information to be used while keeping trade secrets  
1075 and proprietary material confidential. ~~reach an agreement so that~~  
1076 ~~the Confidential Information can be used in a manner which will~~  
1077 ~~not reveal its trade secret, confidential or proprietary nature.~~

1078 (b) If efforts taken pursuant to this Subsection 605(2)(a)  
1079 fail, the providing person owner of the information shall  
1080 separately identify, within five (5) business days, which  
1081 portions, if any, of the documents to be offered or referenced on

1082 ~~the record containing Confidential Information shall be placed in~~  
1083 ~~the sealed record~~ move the Commission to segregate and withhold any  
1084 portion of the record that would reveal trade secrets or  
1085 proprietary information. Only one (1) copy of documents  
1086 designated by the providing person to be placed in a sealed record  
1087 shall be made and only for that purpose. Otherwise, persons shall  
1088 make only general references to Confidential Information in any  
1089 proceedings.

1090 (c) If the Commission grants a motion to ~~seal~~ segregate and  
1091 withhold a record, the moving party shall mark the record, as  
1092 applicable, substantially as follows:

1093 (i) ~~b. Seal. While in the custody of the Commission,~~  
1094 ~~Confidential Information provided pursuant to this rule or a~~  
1095 ~~Protective Order shall be marked substantially as follows:~~

1096 "CONFIDENTIAL--SUBJECT TO PUBLIC SERVICE COMMISSION OF UTAH RULE  
1097 746-1-605"; or

1098 (ii) "CONFIDENTIAL--SUBJECT TO PROTECTIVE ORDER". ~~or~~  
1099 ~~"CONFIDENTIAL SUBJECT TO PROTECTIVE ORDER IN DOCKET NO. XX XXX XX~~  
1100 ~~(reflecting the appropriate docket number)."~~

1101 (3) A party that considers it necessary to discuss a  
1102 segregated confidential record during an adjudication shall move  
1103 the Commission for an in camera hearing.e. In Camera Hearing.  
1104 ~~Any Confidential Information that must be orally disclosed to be~~  
1105 ~~placed in a sealed record of a proceeding shall be offered in an~~  
1106 ~~in camera hearing, attended only by persons authorized to have~~  
1107 ~~access to the Confidential Information under this rule or~~  
1108 ~~Protective Order. Similarly, cross examination on or substantive~~  
1109 ~~reference to Confidential Information, as well as that portion of~~  
1110 ~~the record containing references thereto, shall be similarly~~  
1111 ~~marked and treated.~~

1112 ~~d. Appeal. Sealed portions of the record in any proceeding may~~  
1113 ~~be forwarded to any court of competent jurisdiction on appeal in~~  
1114 ~~accordance with applicable rules and regulations, but under seal~~  
1115 ~~as designated herein, for the information and use of the court.~~

1116 (4)(a) ~~e. Return. Unless otherwise ordered, Confidential~~  
1117 ~~Information, including transcripts of any depositions to which a~~  
1118 ~~claim of confidentiality is made, shall remain under seal, shall~~  
1119 ~~continue to be subject to the protective requirements of this rule~~  
1120 ~~or Protective Order, and shall be returned to the A person, other~~  
1121 ~~than counsel, that obtains another person's confidential or highly~~  
1122 ~~confidential information during a proceeding shall, providing~~  
1123 ~~person or counsel for the providing person within 30 days after~~  
1124 ~~the docket is concluded: final order, settlement, or other~~  
1125 ~~conclusion of the matters in which they were used, including~~  
1126 ~~administrative or judicial review thereof~~

1127 (i) return to the owner of the information all records in  
1128 the party's possession that reference the confidential

1129 information; or  
1130 (ii) certify, within 30 days after final order, settlement,  
1131 or other conclusion of the matter including administrative or  
1132 judicial review thereof, that the Confidential Information  
1133 information has been:

1134 (A) turned over, in its entirety, to the person's counsel;  
1135 or

1136 (B) destroyed.

1137 (b) ~~Counsel who are provided access to Confidential~~  
1138 ~~Information pursuant to the terms of this rule or Protective Order~~  
1139 ~~may retain confidential information as part of their notes,~~  
1140 ~~workpapers, and other documents constituting as their attorney work~~  
1141 ~~product and subject to privilege. created with respect to their~~  
1142 ~~use and access to Confidential Information in the matter. An~~  
1143 ~~expert witness, accorded access to Confidential Information~~  
1144 ~~pursuant to this rule or Protective Order, shall provide to~~  
1145 ~~counsel for the person on whose behalf the expert was retained or~~  
1146 ~~employed, the expert's notes, work papers or other documents~~  
1147 ~~pertaining or relating to any Confidential Information. Counsel~~  
1148 ~~shall retain these experts' documents with counsel's documents.~~  
1149 ~~In order to facilitate their ongoing responsibility, this~~  
1150 ~~provision shall not apply to the Commission, the Division of~~  
1151 ~~Public Utilities or the Office of Consumer Services, which may~~  
1152 ~~retain Confidential Information obtained under this rule or~~  
1153 ~~Protective Order subject to the other terms of this rule or~~  
1154 ~~Protective Order. Any party that intends to use or disclose~~  
1155 ~~Confidential Information obtained pursuant to this rule or a~~  
1156 ~~Protective Order in any subsequent Commission dockets or~~  
1157 ~~proceedings, shall do so in accordance with the terms of this rule~~  
1158 ~~or any applicable protective orders issued in such other~~  
1159 ~~subsequent Commission dockets or proceedings and only after~~  
1160 ~~providing notice of such intent to the providing person along with~~  
1161 ~~an identification of the original source of the Confidential~~  
1162 ~~Information.~~

1163 ~~5. Use in Decisions and Orders. The Commission will attempt~~  
1164 ~~to refer to Confidential Information in only a general, or~~  
1165 ~~conclusionary form and will avoid reproduction in any decision of~~  
1166 ~~Confidential Information to the greatest possible extent. If it~~  
1167 ~~is necessary for a determination in a proceeding to discuss~~  
1168 ~~Confidential Information other than in a general, or conclusionary~~  
1169 ~~form, it shall be placed in a separate section of an Order, or~~  
1170 ~~Decision, under seal. This sealed section shall be served only on~~  
1171 ~~counsel of record (one copy each) who have signed a Nondisclosure~~  
1172 ~~Agreement and counsel for the Division of Public Utilities and~~  
1173 ~~Office of Consumer Services. Counsel for other parties shall~~  
1174 ~~receive the cover sheet to the sealed portion and may review the~~  
1175 ~~sealed portion on file with the Commission once they have signed a~~

1176 ~~Nondisclosure Agreement.~~  
1177 ~~6. Segregation of Files. Those parts of any writing,~~  
1178 ~~depositions reduced to writing, written examination,~~  
1179 ~~interrogatories and answers thereto, or other written references~~  
1180 ~~to Confidential Information in the course of discovery, if filed~~  
1181 ~~with the Commission, will be sealed by the Commission, segregated~~  
1182 ~~in the files of the Commission, and withheld from inspection by~~  
1183 ~~any person not bound by the terms of this rule or Protective~~  
1184 ~~Order, unless such Confidential Information is released from the~~  
1185 ~~restrictions of this rule or Protective Order, either through~~  
1186 ~~agreement of the parties, or after notice to the parties and~~  
1187 ~~hearing, pursuant to an order of the Commission and/or final order~~  
1188 ~~of a court having jurisdiction.~~  
1189 ~~7. Preservation of Confidentiality. All persons who may be~~  
1190 ~~entitled to receive, or who are afforded access to any~~  
1191 ~~Confidential Information by reason of this rule or Protective~~  
1192 ~~Order shall neither use, nor disclose the Confidential Information~~  
1193 ~~for purposes of business or competition, or any other purpose~~  
1194 ~~other than the purposes of preparation for and conduct of~~  
1195 ~~Commission proceedings, and then solely as contemplated herein,~~  
1196 ~~and shall take reasonable precautions to keep the Confidential~~  
1197 ~~Information secure in accordance with the purposes and intent of~~  
1198 ~~this rule or a Protective Order.~~  
1199 ~~8. Reservation of Rights. Persons affected by the terms of~~  
1200 ~~this rule or a Protective Order retain the right to question,~~  
1201 ~~challenge, and object to the admissibility of any and all data,~~  
1202 ~~information, studies and other matters furnished under the terms~~  
1203 ~~of this rule or a Protective Order in response to interrogatories,~~  
1204 ~~requests for information, other modes of discovery, or cross-~~  
1205 ~~examination on the grounds of relevancy or materiality. This rule~~  
1206 ~~or a Protective Order shall in no way constitute any waiver of the~~  
1207 ~~rights of any person to contest any assertion by another person or~~  
1208 ~~finding by the Commission that any information is a trade secret,~~  
1209 ~~confidential, or privileged, and to appeal any assertion or~~  
1210 ~~finding.~~

1211  
1212 **R746-1-606. Commission Compliance with the Utah Government**  
1213 **Records Access and Management Act.**

1214 (1) A party's marking information as confidential or highly  
1215 confidential does not ensure a classification of "private,"  
1216 "protected," or "classified" under the Utah Government Records  
1217 Access and Management Act, Utah Code § 63G-2-101 et seq.

1218 (2) a party whose confidential or highly confidential  
1219 information is requested pursuant to Utah Code § 63G-2-101 et seq.  
1220 shall collaborate with the Commission to determine how the  
1221 information should be classified under the statute.

1222

1223 **R746-1-701[100-10]. Witness Subpoenas.**

1224 (1) A party that wishes to subpoena a witness for hearing  
1225 shall:

1226 (a) file the subpoena with the presiding officer at least 20  
1227 days prior to hearing;

1228 (b) serve the subpoena on the witness pursuant to Utah Rule  
1229 of Civil Procedure 45(b)(1); and

1230 ~~(c) and Attendance of Witnesses — Commissioners, the~~  
1231 ~~secretary to the Commission, and administrative law judges or~~  
1232 ~~presiding officers employed by the Commission are delegated the~~  
1233 ~~authority to sign and issue subpoenas. Parties desiring the~~  
1234 ~~issuance of subpoenas shall submit them to the Commission. The~~  
1235 ~~parties at whose behest the subpoena is issued shall be~~  
1236 ~~responsible for service and paying the person summoned pay the~~  
1237 ~~witness the statutory mileage and witness fees, unless the witness~~  
1238 ~~waives payment.~~

1239 (2) Failure to obey the Commission's subpoena shall be  
1240 considered contempt pursuant to Utah Code § 54-7-23(2).

1241  
1242 ~~A. Time and Place — When a matter is at issue, the Commission~~  
1243 ~~shall set a time and place for hearing. Notice of the hearing~~  
1244 ~~shall be served in conformance with Sections 63G-4-201(2)(b) and~~  
1245 ~~63G-4-201(3)(c) at least five days before the date of the hearing~~  
1246 ~~or shorter period as determined by the Commission.~~

1247  
1248 **R746-1-702. Continuance of Scheduled Hearing.**

1249 (1) A person requesting to continue a scheduled hearing  
1250 shall demonstrate that:

1251 (i) the request is supported by good cause; or

1252 (ii) all parties stipulate to the continuance.

1253 (2) Unless otherwise ordered by the presiding officer, any  
1254 objection to a request for continuance shall be filed no later  
1255 than five days following the date on which the request is filed  
1256 and served.

1257 ~~B. Continuance — Continuances may be granted upon good cause~~  
1258 ~~shown. The Commission may impose the costs in connection with the~~  
1259 ~~continuance as it judges appropriate.~~

1260 ~~C. Failure to Appear — A party's default shall be entered and~~  
1261 ~~disposed of in accordance with Section 63G-4-209.~~

1262 ~~E. Conduct of the Hearing —~~

1263  
1264 **R746-1-703. Closing a Hearing.**

1265 A party that wishes to close a hearing shall comply with Utah  
1266 Code § 54-3-21(4) or a portion of a hearing has the burden to  
1267 demonstrate that, unless the hearing is closed, the person will be  
1268 damaged by the dissemination of:

1269 ~~(1) proprietary information;~~

1270 ~~—— (2) trade secrets; or~~  
1271 ~~—— (3) confidential material.~~

1272 1. ~~Generally — Hearings may be held before the full~~  
1273 ~~Commission, one or more commissioners, administrative law judges~~  
1274 ~~or presiding officers employed by the Commission as provided by~~  
1275 ~~law and as the Commission shall direct. Hearings shall be open to~~  
1276 ~~the public, except where the Commission closes a hearing for the~~  
1277 ~~presentation of proprietary, trade secret or confidential~~  
1278 ~~material. Failure to obey the rulings and orders of the presiding~~  
1279 ~~officer may be considered contempt.~~

1280 2. ~~Before commissioner or administrative law judge — When a~~  
1281 ~~hearing is conducted before less than the full Commission, before~~  
1282 ~~an administrative law judge or presiding officer, the presiding~~  
1283 ~~officer shall ensure that the taking of evidence and subsequent~~  
1284 ~~matters proceed as expeditiously as practicable. The presiding~~  
1285 ~~officer shall prepare and certify a recommended decision to the~~  
1286 ~~Commission. Except as otherwise ordered by the Commission or~~  
1287 ~~provided by law, the presiding officer may schedule and otherwise~~  
1288 ~~regulate the course of the hearing; recess, reconvene, postpone,~~  
1289 ~~or adjourn the hearing; administer oaths; rule on and receive~~  
1290 ~~evidence; cause discovery to be conducted; issue subpoenas; hold~~  
1291 ~~conferences of the participants; rule on, and dispose of,~~  
1292 ~~procedural matters, including oral or written motions; summarily~~  
1293 ~~dispose of a proceeding or part of a proceeding; certify a~~  
1294 ~~question to the Commission; permit or deny appeal of an~~  
1295 ~~interlocutory ruling; and separate an issue or group of issues~~  
1296 ~~from other issues in a proceeding and treat the issue or group of~~  
1297 ~~issues as a separate phase of the proceeding. The presiding~~  
1298 ~~officer may maintain order as follows:~~

1299 a. ~~ensure that disregard by a person of rulings on~~  
1300 ~~matters of order and procedure is noted on the record or, if~~  
1301 ~~appropriate, is made the subject of a special written report to~~  
1302 ~~the Commission;~~

1303 b. ~~if a person engages in disrespectful, disorderly, or~~  
1304 ~~eontumacious language or conduct in connection with the hearing,~~  
1305 ~~recess the hearing for the time necessary to regain order;~~

1306 e. ~~take appropriate action, including removal from the~~  
1307 ~~proceeding, against a participant or counsel, if necessary to~~  
1308 ~~maintain order.~~

1309 3. ~~Before full Commission — In hearings before the full~~  
1310 ~~Commission, the Commission shall exercise the above powers and any~~  
1311 ~~others available to it and convenient or necessary to an orderly,~~  
1312 ~~just, and expeditious hearing.~~

1313

1314 **R746-1-704. Public Witness Evidence.**

1315 1. ~~Generally — The Commission is not bound by the technical~~  
1316 ~~rules of evidence and may receive any oral or documentary~~

1317 ~~evidence; except that no finding may be predicated solely on~~  
1318 ~~hearsay or otherwise incompetent evidence. Further, the~~  
1319 ~~Commission may exclude non-probative, irrelevant, or unduly~~  
1320 ~~repetitious evidence. Testimony shall be under oath and subject~~  
1321 ~~to cross-examination.~~

1322 (1) A person not a party to a docket who does not petition  
1323 for intervention may:

1324 (a) file comments prior to hearing; or

1325 (b) appear during the public witness portion of a hearing to  
1326 provide unsworn testimony. ~~A public witness may elect to provide~~  
1327 ~~unsworn statements. If providing a sworn statement, a public~~  
1328 ~~witness shall be subject to cross examination.~~

1329 (2) A public witness may not conduct cross examination.

1330

1331 **R746-1-705. Exhibits Offered at Hearing.**

1332 a. ~~Except as to oral testimony and items administratively~~  
1333 ~~noticed, material offered into evidence shall be in the form of an~~  
1334 ~~exhibit. Exhibits shall be premarked.~~

1335 (1) ~~Parties offering exhibits shall:~~

1336 (a) mark their exhibits before hearing; ~~before the hearing~~  
1337 ~~begins,~~

1338 (b) provide the original of each exhibit to the court  
1339 reporter, if applicable; and

1340 (c) provide a copy of each exhibit to:

1341 (i) the presiding officer; and

1342 (ii) each party.

1343 (2) If an exhibit offered at hearing contains information  
1344 claimed to be confidential or highly confidential, the party  
1345 offering the exhibit shall comply with R746-1-601. ~~At a party's~~  
1346 ~~election, the party may:~~

1347 ~~(a) provide an unredacted version of an exhibit to the~~  
1348 ~~presiding officer and court reporter;~~

1349 ~~(b) provide a redacted version of the exhibit to the other~~  
1350 ~~parties and other participants or their representatives, and the~~  
1351 ~~original to the reporter, if there is one, otherwise to the~~  
1352 ~~presiding officer. If documents contain information the offering~~  
1353 ~~participant does not wish to include, the offering party shall~~  
1354 ~~mark out, excise, or otherwise exclude the extraneous portion on~~  
1355 ~~the original. Additions to exhibits shall be dealt with in the~~  
1356 ~~same manner.~~

1357 b. ~~Exhibits shall be premarked, by the offering party, in~~  
1358 ~~the upper right corner of each page by identifying the party, the~~  
1359 ~~witness, docket number, and a number reflecting the order in which~~  
1360 ~~the offering party will introduce the exhibit.~~

1361

1362 3. ~~Administrative notice~~ ~~The presiding officer may take~~  
1363 ~~administrative or official notice of a matter in conformance with~~



1364 ~~Section 63G-4-206(1)(b)(iv).~~

1365

1366 **~~R746-1-706. Order of Presentation of Evidence at Hearing.~~**

1367 ~~—— (1) Unless otherwise ordered or agreed, the presiding~~  
1368 ~~officer orders otherwise, applicant or petitioner, including~~  
1369 ~~petitioners for an order to show cause, shall first present their~~  
1370 ~~case in chief, followed by other parties, in the order designated~~  
1371 ~~by the presiding officer, followed by the proposing party's~~  
1372 ~~rebuttal.~~

1373

1374 ~~4.—— Stipulations —— Participants in a proceeding may stipulate~~  
1375 ~~to relevant matters of fact or the authenticity of relevant~~  
1376 ~~documents. Stipulations may be received in evidence, and if~~  
1377 ~~received, are binding on the participants with respect to any~~  
1378 ~~matter stipulated. Stipulations may be written or made orally at~~  
1379 ~~the hearing.~~

1380 ~~5.—— Settlements ——~~

1381 ~~a.—— Cases may be resolved by a settlement of the parties~~  
1382 ~~if approved by the Commission. Issues so resolved are not binding~~  
1383 ~~precedent in future cases involving similar issues.~~

1384 ~~b.—— Before accepting an offer of settlement, the~~  
1385 ~~Commission may require the parties offering the settlement to show~~  
1386 ~~that each party has been notified of, and allowed to participate~~  
1387 ~~in, settlement negotiations. Parties not adhering to settlement~~  
1388 ~~agreements shall be entitled to oppose the agreements in a manner~~  
1389 ~~directed by the Commission.~~

1390

1391 ~~I. Recording of Hearing and Transcript —— Hearings may be~~  
1392 ~~recorded by a shorthand reporter licensed in Utah; except that in~~  
1393 ~~non-contested matters, or by agreement of the parties, hearings~~  
1394 ~~may be recorded electronically.~~

1395 ~~1.—— Unless otherwise ordered by the Commission, scheduling~~  
1396 ~~conferences and technical conferences will not be recorded.~~

1397 ~~2.—— If a party requests that a scheduling conference or~~  
1398 ~~technical conference be recorded, the Commission may require that~~  
1399 ~~party to pay some or all of the costs associated with recording.~~

1400

1401 ~~K. Cross Examination —— The Commission may require written cross-~~  
1402 ~~examination and may limit the time given parties to present~~  
1403 ~~evidence and cross-examine witnesses. The presiding officer may~~  
1404 ~~exclude friendly cross-examination. The Commission discourages~~  
1405 ~~and may prohibit parties from making their cases through cross-~~  
1406 ~~examination.~~

1407

1408 ~~L. Procedure at Conclusion of Hearing —— At the conclusion of~~  
1409 ~~proceedings, the presiding officer may direct a party to submit a~~  
1410 ~~written proposed order. The presiding officer may also order~~

1411 ~~parties to present further matter in the form of oral argument or~~  
1412 ~~written memoranda.~~

1413

1414 **~~R746-100-11. Commission deliberation.~~**

1415 ~~A. Generally — Decisions and orders may be drafted by the~~  
1416 ~~Commission or by parties as the Commission may direct. Draft or~~  
1417 ~~proposed orders shall contain a heading similar to that of~~  
1418 ~~pleadings and bear at the top the name, address, and telephone~~  
1419 ~~number of the persons preparing them. Final orders shall have a~~  
1420 ~~concise summary of the case containing the salient facts, the~~  
1421 ~~issues considered by the Commission, and the Commission's~~  
1422 ~~disposition of them. A short synopsis of the order, placed at the~~  
1423 ~~beginning of the order, shall describe the final resolutions made~~  
1424 ~~in the order.~~

1425 ~~B. Recommended Orders — If a case has been heard by less than~~  
1426 ~~the full Commission, or by an administrative law judge, the~~  
1427 ~~official hearing the case shall submit to the Commission a~~  
1428 ~~recommended report containing proposed findings of fact,~~  
1429 ~~conclusions of law, and an order based thereon.~~

1430 ~~C. Final Orders of Commission — If a case has been heard by the~~  
1431 ~~full Commission, it shall confer following the hearing. Upon~~  
1432 ~~reaching its decision, the Commission shall draft or direct the~~  
1433 ~~drafting of a report and order, which upon signature of at least~~  
1434 ~~two Commissioners shall become the order of the Commission.~~  
1435 ~~Dissenting and concurring opinions of individual commissioners may~~  
1436 ~~be filed with the order of the Commission~~

1437 ~~D. Deliberations — Deliberations of the Commission shall be in~~  
1438 ~~closed chambers.~~

1439 ~~E. Effective Date — Copies of the Commission's final report and~~  
1440 ~~order shall be served upon the parties of record. Orders shall be~~  
1441 ~~effective the date of issuance unless otherwise stated in the~~  
1442 ~~order. Upon petition of a party, and for good cause shown, the~~  
1443 ~~Commission may extend the time for compliance fixed in an order.~~

1444 ~~F. Review or Rehearing — Petitions for review or rehearing shall~~  
1445 ~~be filed within 30 days of the issuance date of the order in~~  
1446 ~~accordance with Section 63G-4-301 and served on other parties of~~  
1447 ~~record.~~

1448

1449 **R746-1-801. Reconsideration and Agency Review.**

1450 (1) A person who challenges a finding of fact in a request  
1451 for reconsideration or review shall 1. ~~A party asking the~~  
1452 ~~Commission to modify a fact finding must~~ marshal the record  
1453 evidence that supports the challenged finding, as set forth in  
1454 State v. Nielsen, 2014 UT 10, ~~paragraphs ¶¶~~ 33-44, 326 P.3d 645.

1455 (2) Following the filing of a petition for reconsideration  
1456 or review, opposing parties may file responsive memoranda or  
1457 pleadings within 15 days.

1458 (3) Proceedings on review shall be in accordance with  
1459 ~~Section~~Utah Code § 54-7-15.

1460 (4) A petition for reconsideration pursuant to ~~Section~~Utah  
1461 Code § 63G-4-302 is not required in order for a party to exhaust  
1462 its administrative remedies prior to appeal.

1463  
1464 ~~R746-100-12. Appeals.~~

1465 ~~Appeals from final orders of the Commission shall be to a court of~~  
1466 ~~appropriate jurisdiction.~~

1467  
1468 ~~R746-100-13. Ex Parte Communications.~~

1469 ~~A. Ex Parte Communications Prohibited -- To avoid prejudice, real~~  
1470 ~~or perceived, to the public interest and persons involved in~~  
1471 ~~proceedings pending before the Commission:~~

1472 ~~B. Persons Affected -- Except as permitted in R746-100-13(C), no~~  
1473 ~~person who is a party, or the party's counsel, agent, or other~~  
1474 ~~person acting on the party's behalf, shall engage in ex parte~~  
1475 ~~communications with a commissioner, administrative law judge,~~  
1476 ~~presiding officer, or any other employee of the Commission who is,~~  
1477 ~~or may reasonably be expected to be, involved in the decision-~~  
1478 ~~making process regarding a matter pending before the Commission.~~  
1479 ~~No commissioner, administrative law judge, presiding officer, or~~  
1480 ~~other employee of the Commission who is, or may reasonably be~~  
1481 ~~expected to be, involved in the decision-making process shall~~  
1482 ~~request or entertain ex parte communications.~~

1483 ~~C. Exceptions -- The prohibitions contained in R746-100-13(B) do~~  
1484 ~~not apply to a communication:~~

- 1485 ~~1. -- from an interceder who is a local, state, or federal~~  
1486 ~~agency which has no official interest in the outcome and whose~~  
1487 ~~official duties are not affected by the outcome of the on the-~~  
1488 ~~record proceedings before the Commission to which the~~  
1489 ~~communication relates;~~
- 1490 ~~2. -- from a party, or the party's counsel, agent, or other~~  
1491 ~~person acting on the party's behalf if the communication relates~~  
1492 ~~to matters of procedure only;~~
- 1493 ~~3. -- from a person when otherwise authorized by law;~~
- 1494 ~~4. -- related to routine safety, construction, and operational~~  
1495 ~~inspections of project works by Commission employees undertaken to~~  
1496 ~~investigate or study a matter pending before the Commission;~~
- 1497 ~~5. -- related to routine field audits of the accounts or the~~  
1498 ~~books or records of a company subject to the Commission's~~  
1499 ~~accounting requirements not undertaken to investigate or study a~~  
1500 ~~matter pending in issue before the Commission in a proceeding;~~
- 1501 ~~6. -- related solely to a request for supplemental information~~  
1502 ~~or data necessary for an understanding of factual materials~~  
1503 ~~contained in documents or other evidence filed with the Commission~~  
1504 ~~in a proceeding covered by these rules and which is made in the~~

1505 ~~presence of or after coordination with counsel.~~

1506 H. ~~Time When Prohibitions Apply~~ — The prohibitions contained in  
1507 this rule shall apply from the at which the point a proceeding is  
1508 noticed for hearing or the point the person responsible for the  
1509 communication has knowledge that it will be noticed for hearing or  
1510 when a protest or a request to intervene in opposition to  
1511 requested Commission action has been filed, whichever occurs  
1512 first.

1513 D. ~~Records of Ex Parte Communications~~ — Written communications  
1514 prohibited by R746 100 13(B), sworn statements reciting the  
1515 substance of oral communications, and written responses and sworn  
1516 statements reciting the substance of oral responses to prohibited  
1517 communications shall be delivered to the secretary of the  
1518 Commission, who shall place the communication in the case file,  
1519 but separate from the material upon which the Commission can rely  
1520 in reaching its decision. The secretary shall serve copies of the  
1521 communications upon parties to the proceeding and serve copies of  
1522 the sworn statement to the communicator and allow him a reasonable  
1523 time to file a response.

1524 E. ~~Treatment of Ex Parte Communications~~ — A commissioner,  
1525 administrative law judge, presiding officer, or an employee of the  
1526 Commission who receives an oral offer of a communication  
1527 prohibited by R746 100 13(B) shall decline to hear the  
1528 communication and explain that the matter is pending for  
1529 determination. If unsuccessful in preventing the communication,  
1530 the recipient shall advise the communicator that the communication  
1531 will not be considered. The recipient shall, within two days,  
1532 prepare a statement setting forth the substance of the  
1533 communication and the circumstances of its receipt and deliver it  
1534 to the secretary of the Commission for filing. The secretary  
1535 shall forward copies of the statement to the parties.

1536 F. ~~Rebuttal~~ — Requests for an opportunity to rebut on the record  
1537 matters contained in an ex parte communication which the secretary  
1538 has associated with the record may be filed in writing with the  
1539 Commission. The Commission may grant the requests only if it  
1540 determines that fairness so requires. If the communication  
1541 contains assertions of fact not a part of the record and of which  
1542 the Commission cannot take administrative notice, the Commission,  
1543 in lieu of receiving rebuttal material, normally will direct that  
1544 the alleged factual assertion on proposed rebuttal be disregarded  
1545 in arriving at a decision. The Commission will not normally  
1546 permit a rebuttal of ex parte endorsements or oppositions by civic  
1547 or other organizations by the submission of counter endorsements  
1548 or oppositions.

1549 G. ~~Sanctions~~ — Upon receipt of a communication knowingly made in  
1550 violation of R746 100 13(B), the presiding officer may require the  
1551 communicator, to the extent consistent with the public interest,

1552 ~~to show cause why the communicator's interest in the proceeding~~  
1553 ~~should not be dismissed, denied, disregarded, or otherwise~~  
1554 ~~adversely affected because of the violation.~~

1555  
1556 **~~R746-100-14. Rulemaking.~~**

1557 **~~A. How initiated~~**

1558 ~~1. By the Commission -- When the Commission perceives the~~  
1559 ~~desirability or necessity of adopting a rule, it shall~~  
1560 ~~draft or direct the drafting of the rule. During the~~  
1561 ~~drafting process, the Commission may request the opinion~~  
1562 ~~and assistance of any appropriate person. It may also, in~~  
1563 ~~its discretion, conduct public hearings in connection with~~  
1564 ~~the drafting. When the Commission is satisfied with the~~  
1565 ~~draft of the proposed rule, it may formally propose it in~~  
1566 ~~accordance with the Utah Rulemaking Act, 63G-3-301.~~

1567 ~~2. By others -- Persons may petition the Commission for the~~  
1568 ~~adoption of a rule. The petitions shall be accompanied by~~  
1569 ~~a draft of the rule proposed. Upon receipt the Commission~~  
1570 ~~shall review the petition and draft and if it finds the~~  
1571 ~~proposed rule desirable or necessary, it shall proceed as~~  
1572 ~~with proposed rules initiated by the Commission, including~~  
1573 ~~amending or redrafting. If the Commission finds the~~  
1574 ~~proposal unnecessary or undesirable, it shall so notify~~  
1575 ~~the petitioner in writing, giving reasons for its~~  
1576 ~~findings. No public hearing shall be required in~~  
1577 ~~connection with the Commission's review of a petition for~~  
1578 ~~rulemaking.~~

1579 **~~B. Hearing Procedure~~** -- ~~Hearings conducted in connection with~~  
1580 ~~rulemaking shall be informal, subject to requirements of~~  
1581 ~~decorum and order. Absent a finding of good cause to proceed~~  
1582 ~~otherwise, testimony and statements shall be unsworn, and~~  
1583 ~~there shall be no opportunity for participants to cross-~~  
1584 ~~examine. The Commission shall have the right, however, to~~  
1585 ~~freely question witnesses. Public hearings shall be recorded~~  
1586 ~~by shorthand reporter or electronically, at the discretion of~~  
1587 ~~the Commission, and the Commission may allow or request the~~  
1588 ~~submission of written materials.~~

Change chart – R746-100 to R746-1

## R746-100 Repeal; R746-1 Enactment

EXISTING RULE NUMBER	NEW RULE NUMBER	Section Name	Summary of change
746-100-1(A)	746-1-101	Title and organization	Establish the name of the rule. List the rule parts
746-100-1(E)	746-1-102	Authority (to make rules)	Reworded and simplified
746-100-2(A)	746-1-103(1)	"Applicant"	
746-100-2(B)	746-1-103(2)	"Commission"	Defined by reference to statute.
746-100-2(C)	746-1-103(3)	"Complainant"	Significant rewording.
746-100-2(D)		"Consumer complaint"	Definition deleted.
746-100-2(E)	746-1-103(4)	"Division"	
746-100-2(F)	746-1-901	"Ex parte communication"	Definition deleted – ex parte communications are adequately addressed in Utah Code § 54-7-1.5
746-100-2(G)		"Formal proceeding"	Definition deleted – covered in UAPA.
746-100-2(H)		"Informal proceeding"	Definition deleted – covered in UAPA.
746-100-3(A)	746-1-103(5)	"Initial pleading"	Significant rewording.
746-100-2(J)	746-1-103(6)	"Interested person"	Significant rewording.
746-100-2(K)	746-1-103(7)	"Intervenor"	Significant rewording.
746-100-2(L)	746-1-103(8)	"Office"	
746-100-2(I)	746-1-103(9)	"Party"	Some rewording.
746-100-2(M)	746-1-103(10)	"Person"	Defined by reference to statute.
746-100-2(N)	746-1-103(11)	"Petitioner"	
746-100-2(O)	746-1-103(12)	"Presiding officer"	Defined by reference to statute.
746-100-2(P)	746-1-103(13)	"Proceeding"	Significant rewording.
746-100-2(Q)	746-1-704	"Public witness"	Significant rewording. Definition incorporated into substantive rule.
746-100-2(R)	746-1-103(14)	"Respondent"	Some rewording.
746-100-3(A)	746-1-103(15)	"Responsive pleading"	Some rewording.
746-100-1(B)	746-1-104	Designation of adjudicative proceedings	Added language to designate the following requests for agency action as informal adjudications: <ul style="list-style-type: none"> <li>• a complaint;</li> <li>• an unopposed request for a certificate of public convenience and necessary;</li> <li>• a request for acknowledgment or approval of a telecommunications utility's name change; and</li> <li>• a 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</li> </ul>
746-100-1(C)	746-1-105	Utah rules of civil procedure	Rewording – identify URCP as persuasive authority unless specifically incorporated.

746-100-1(D)		Gender/number disclaimer	Deleted as archaic.
746-100-3(B)(1)		Docket number	Deleted. The language was strictly informational, as it did not require compliance from public utilities. To the extent the information might be useful, the PSC will post it on the website.
746-100-4(E)	746-1-106	Computation of time	Rewording. Language added to allow a conflicting order, statute, or rule to supersede the computation scheme set forth.
746-100-6	746-1-107	Representation of parties	Significant rewording; some of the existing language is deleted. Added reference to § 14-801 of the Utah Supreme Court Rules of Professional Practice.
746-100-7	746-1-108	Intervention	Some rewording.
746-100-15	746-1-109	Deviation from rules	Some rewording; opportunity to deviate restricted to procedural rules.
746-100-3(H)	746-1-201	Complaints	Significant rewording and reformatting.
746-100-3(B)(2)	746-1-202	Title of pleadings	Some rewording. Table reformatted as a list.
746-100-3(C), (D), (G)	746-1-203	Form of complete filing	Broadened to apply to all filings, rather than just pleadings. Significant rewording and reformatting. If the PSC transitions to paperless filings, this section will be amended further.
	746-1-204	Effective date of filing	New substantive section.
746-100-3(I)	746-1-205	Content of initial pleading	Rewording and reformatting.
746-100-3(F)	746-1-206	Amendment of complaint or initial pleading	Reformatted and generalized to apply to pleadings and complaints.
746-100-4(B)		Notice conforming with 63G-4-201 required	Deleted as duplicative of statute.
746-100-4(C)		Required customer notice	Deleted as unnecessary in light of statutory notice requirements. See Utah Code §§ 53-3-3, 54-4-1.1, 54-7-12(7), and 54-7-12(8).
746-100-3(K) and 100-4(D)	746-1-207	Responsive pleadings	Deleted reference to 30-day deadline with reference to Utah Code § 63G-4-204; included option for Commission to establish a different response deadline.
746-100-3(J) and 100-4(D)	746-1-300	Motions	<ul style="list-style-type: none"> <li>• Reformatted; superfluous language deleted.</li> <li>• Added briefing schedule for motions.</li> <li>• Deleted requirement to file a motion to dismiss before filing a response. If a motion deadline is needed, the Commission will include it in the scheduling order.</li> </ul>
746-100-5		Participation	Deleted – covered in UAPA at Utah Code § 63G-4-206(1)(d): "The presiding officer shall afford to all parties the opportunity to present evidence, argue, respond, conduct cross-examination, and submit rebuttal evidence."
746-100-9; 746-100-10(G); 746-100-10(F)(2)(c)	746-1-401	Pre-hearing comments and testimony – general requirements	<ul style="list-style-type: none"> <li>• Much language deleted as duplicative of UAPA at Utah Code § 63G-4-102(4)(a): "This chapter does not preclude an agency, prior to the beginning of an adjudicative proceeding, or the presiding officer during an adjudicative proceeding from requesting or ordering a conference with parties and interested persons to (i) encourage settlement; (ii) clarify the issues; (iii) simplify the evidence; (iv) facilitate discovery; or (v) expedite the proceeding.</li> </ul>



			<ul style="list-style-type: none"> <li>• Added a requirement to include in the filing the name of the party on whose behalf the testimony is offered.</li> <li>• Broadened the language to apply to both comments and testimony.</li> </ul>
746-100-10(G)	746-1-402	Pre-hearing testimony – inclusion in record	Significant rewording and reformatting.
746-100-8	746-1-501	Discovery	<ul style="list-style-type: none"> <li>• Significant rewording and reformatting.</li> <li>• Added request for admission as a method of informal discovery.</li> <li>• Added provision to govern an objection to a discovery request.</li> <li>• Added a requirement for an intervenor to request discovery from the parties.</li> </ul>
746-100-3(E); 746-100-16, specifically (A)(1)(b) and (g), but relevant language scattered throughout	746-1-601	Identification of Information Claimed to Be Confidential or Highly Confidential in Commission Proceedings	Significant rewording and reformatting, including meaningful deletions of superfluous language.
746-100-16, specifically (A)(1)(e) and (g), but relevant language scattered throughout	746-1-602	Persons Entitled to Review Confidential and Highly Confidential Information	Significant rewording and reformatting, including meaningful deletions of superfluous language.
746-100-16, specifically (A)(1)(d) and (g), but relevant language scattered throughout	746-1-603	Treatment of Confidential and Highly Confidential Information	Significant rewording and reformatting, including meaningful deletions of superfluous language.
746-100-16(A)(2)	746-1-604	Challenge to Claim of Confidentiality	Significant rewording and reformatting, including meaningful deletions of superfluous language.
746-100-16(A)(3), (4), and (5)	746-1-605	Receipt of Confidential and Highly Confidential Information into Evidence	Significant rewording and reformatting, including meaningful deletions of superfluous language.

	746-1-606	Commission Compliance with the Utah Government Records Access and Management Act	New section. Requires a party whose confidential or highly confidential information is requested pursuant to GRAMA to collaborate with the Commission to determine how the information should be classified under the statute.
746-100-10(H)		Joint exhibits	Deleted. If the PSC requires an issues matrix from the parties, it will issue an order.
746-100-10(D)	746-1-701	Witness Subpoenas	<ul style="list-style-type: none"> <li>• Some rewording and reformatting.</li> <li>• Included reference to URCP 45(b)(1) governing service of witness subpoenas.</li> <li>• Added deadline by which party must present subpoena to presiding officer for signature.</li> </ul>
746-100-10(B)	746-1-702	Continuance of scheduled hearing	Added stipulation of the parties stated as a basis (in addition to good cause shown) for granting a motion for continuance.
746-100-10(E)	746-1-703	Closing a hearing	Language deleted in favor of reference to Utah Code § 54-3-21(4).
746-100-10(F)(1)	746-1-704	Public witness evidence	Significant rewording. Option for public witness to provide sworn testimony, subject to cross-examination, deleted. New language added to specify that a public witness may not conduct cross-examination.
746-100-10(F)(2)(a)-(b)	746-1-705	Exhibits offered at hearing	<ul style="list-style-type: none"> <li>• Rewording and reformatting.</li> <li>• Added language to regarding exhibits that contain confidential or highly confidential information.</li> </ul>
746-100-11(D)		Commission deliberation	Deleted as duplicative of <i>Common Cause v. Utah Pub. Serv. Comm'n</i> , 598 P.2d 1312 (Utah 1979).
746-100-11(F)	746-1-801	Reconsideration and agency review	Reworded and reformatted
746-100-13		Ex parte communications	Deleted as duplicative of Utah Code § 54-7-1.5.
746-100-10(J)		Order of presentation of evidence at hearing	Deleted as being unnecessary in rule.
746-100-10(A)		Hearing time and place	Deleted as duplicative of Utah Code § 63G-4-201(2)(a)(vii).
746-100-10(C)		Failure to appear	Deleted as duplicative of Utah Code § 63G-4-209.
746-100-10(E)(2)		Required demeanor at hearing	Deleted as duplicative of Utah Code § 63G-4-206(2): "This section does not preclude the presiding officer from taking appropriate measures necessary to preserve the integrity of the hearing."
746-100-10(F)(3)		Administrative notice	Deleted as duplicative of Utah Code § 63G-4-206(1)(b)(iv): "On the presiding officer's own motion or upon objection by a party, the presiding officer may take official notice of any facts that could be judicially noticed under the Utah Rules of Evidence, of the record of other proceedings before the agency, and of technical or scientific facts within the agency's specialized knowledge."
746-100-10(F)(4)		Stipulations	Deleted as covered under Utah Code § 54-7-1.

746-100-10(F)(5)		Settlements	Deleted as covered under Utah Code § 54-7-1.
746-100-10(I)		Recording of hearing and transcript	Deleted as duplicative of Utah Code § 63G-4-206(1)(g)-(h).
746-100-10(K)		Cross-examination	Deleted as duplicative of Utah Code § 63G-4-206(1)(d).
746-100-10(L)		Procedure at conclusion of hearing	Deleted as being unnecessary in rule.
746-100-11		Decisions and orders	Deleted as duplicative of Utah Code § 63G-4-208.
746-100-12		Appeals	Deleted as duplicative of Utah Code § 63G-4, Parts 3 and 4.
746-100-14		Rulemaking	Deleted as duplicative of Utah Code § 63G-3-101 et seq.