

R746-100-3. Pleadings.

A. Pleadings Enumerated -- Applications, petitions, complaints, orders to show cause, and other traditional initiatory pleadings may be filed with the Commission. Traditional pleadings will be considered requests for agency action, pursuant to Section 63G-4-201, concerning adjudicative proceedings. Answers, protests, and other traditional responsive pleadings may be filed with the Commission and will be considered responses, subject to the requirements of Section 63G-4-204.

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

- a. motions, oppositions, and similar filings in existing Commission proceedings;
- b. informational filings which do not request or require affirmative action, such as Commission approval.

B. Docket Number and Title --

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

2. Headings and titles -- Pleadings shall bear a heading substantially as follows:

TABLE

Name of Attorney preparing or Signer of Pleading
 Address
 Telephone Number

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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In the Matter of the           )
Application, petition,        )   Docket Number
etc.-- for complaints,        )
names of both complainant     )   Type of pleading
and respondent should         )
appear                         )
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C. Form of Pleadings --

1. With the exception of consumer complaints, pleadings shall be double-spaced and in a font of at least 12 points.

2. Pleadings shall be presented for filing in an electronic format that is acceptable to the Commission, on paper 8-1/2 x 11 inches, and shall include the docket number, if known, and shall be dated and time stamped upon receipt by the Commission. If an electronic filing is not possible or practical, a paper filing may be made. If filed in paper format, the pleading shall be presented on 8 1/2 x 11 inches paper format.

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

4. In electronic pleadings, each file shall be identified by an electronic file name that includes at least the following, if applicable to the specific file:

a. the word "direct" "rebuttal" or "surrebuttal";

b. the last name of the witness; and

c. the word "exhibit" or "workpapers" followed by any applicable identification number or letter.

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

~~65.~~ A filing is not complete until the ~~original and all required copies -- both paper and electronic -- documents~~ are provided to the Commission in the form described. If an electronic document is filed in ~~Portable Document Format (PDF)~~ and PDF is not the format of the filing party's source document:

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

b. the PDF document shall include footnote references describing the name and location of the source document in the filed electronic media.

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

E. Pleadings Containing Confidential and Highly Confidential Information --

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

a. ~~The paper version of a pleading containing confidential information shall be filed on yellow paper with the confidential portion of the pleading denoted by shading, highlighting, or other readily identifiable means. Both the paper and electronic versions document containing confidential information presented for filing shall be designated and labeled as confidential in accordance with R746-100-16(A)(1)(b). The file name should include "confidential" within the file name. If a paper filing is made, the pleading containing confidential information shall be filed on yellow paper with the confidential portion of the pleading denoted by shading, highlighting, or other readily identifiable means. The paper filing shall be designated confidential in accordance with R746-100-16(A)(1)(b).~~

b. ~~The Each paper version of a electronic pleading document containing highly confidential information shall be filed on pink paper with the highly confidential portions of the pleadings denoted by shading, highlighting, or other readily identifiable means. Both the paper and electronic versions presented for filing shall be designated and labeled as highly confidential in accordance with R746-100-16(A)(1)(g). The file name should include "highly confidential" within the file name. If a paper filing is made, the pleading containing highly confidential information shall be filed on pink paper with the highly confidential portions of the pleadings denoted by shading, highlighting, or other readily identifiable means. The paper filing shall be designated highly confidential in accordance with R746-100-16(A)(1)(g).~~

c. A non-confidential version also shall be filed in electronic form, from which all confidential and highly confidential information must be redacted. All copies of this version shall clearly be labeled as "Non-Confidential - Redacted Version."

F. Amendments to Pleadings -- The Commission may allow pleadings to be amended or corrected at any time. Initiatory pleadings may be amended without leave of the Commission at any time before a responsive pleading has been filed or the time for filing the pleading has expired. Defects in pleadings which do not affect substantial rights of the parties shall be disregarded.

G. Signing of Pleadings -- Pleadings shall be signed by the party, or by the party's attorney or other authorized representative if the party is represented by an attorney or other authorized representative, and shall show the signer's address. The signature

shall be considered a certification by the signer that he has read the pleading and that, to the best of his knowledge and belief, there is good ground to support it.

H. Consumer Complaints --

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

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

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

I. Content of Pleadings --

1. Pleadings filed with the Commission shall include the following information as applicable:

a. if known, the reference numbers, docket numbers, or other identifying symbols of relevant tariffs, rates, schedules, contracts, applications, rules, or similar matter or material;

b. the name of each participant for whom the filing is made or, if the filing is made for a group of participants, the name of the group, if the name of each member of the group is set forth in a previously filed document which is identified in the filing being made;

c. if statute, rule, regulation, or other authority requires the Commission to act within a specific time period for a matter at issue, a specific section of the pleading, located after the heading or caption, entitled "Proceeding Time Period," shall include: reference or citation to the statute, rule, regulation, or other authority; identification of the time period; and the expiration date of the time period identified by day, month, and year;

d. the specific authorization or relief sought;

e. copies of, or references to, tariff or rate sheets relevant to the pleading;

- f. the name and address of each person against whom the complaint is directed;
- g. the relevant facts, if not set forth in a previously filed document which is identified in the filing being made;
- h. the position taken by the participant filing a pleading, to the extent known when the pleading is filed, and the basis in fact and law for the position;
- i. the name, address, and telephone number of an individual who, with respect to a matter contained in the filing, represents the person for whom the filing is made;
- j. additional information required to be included by Section 63G-4-201, concerning commencement of adjudicative proceedings, or other statute, rule, or order.

J. Motions -- Motions may be submitted for the Commission's decision on either written or oral argument, and the filing of affidavits in support or contravention of the motion is permitted. If oral argument is sought, the party seeking oral argument shall arrange a hearing date with the secretary of the Commission and provide at least five days written notice to affected parties, unless the Commission determines a shorter time period is needed.

K. Responsive Pleadings --

- 1. Responsive pleadings to applications, petitions, or requests for agency action shall be filed in accordance with Section 63G-4-204.
- 2. Response and reply pleadings may be filed to pleadings other than applications, petitions or requests for agency action.

R746-100-16. Use of Information Claimed to Be Confidential or Highly Confidential in Commission Proceedings.

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

1.a. Nature of Confidential Information. A person (Providing Party) required or requested to provide documents, data, information, studies, and other materials of a sensitive, proprietary or confidential nature (Confidential Information) to the Commission or to any party in connection with a Commission proceeding may request protection of such information in accordance with the terms of this rule. Confidential treatment shall be requested only to the extent a good faith reasonable basis exists for claiming that specific information constitutes a trade secret or is otherwise of such a highly-sensitive or proprietary nature that public disclosure would be

inappropriate. Confidential treatment shall be requested narrowly as to only that specific information for which protection is reasonably required.

b. **Identification of Confidential Information.** All documents, data, information, studies and other materials filed in conjunction with a Commission proceeding, made available to proceeding participants, whether made available pursuant to interrogatories, requests for information, subpoenas, depositions, or other modes of discovery or otherwise, that are claimed to be Confidential Information, shall be furnished pursuant to the terms of this rule or any superseding Protective Order, and shall be treated by all persons accorded access thereto pursuant to this rule or Protective Order, and shall neither be used nor disclosed by any recipient thereof except for the purpose of the proceeding in which it was obtained and solely in accordance with this rule or superseding Protective Order. All material claimed to be Confidential Information shall be so marked by the person producing it by stamping or noting the same with a designation substantially as follows: "CONFIDENTIAL - - SUBJECT TO UTAH PUBLIC SERVICE COMMISSION RULE 746-100-16" or "CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER" or "CONFIDENTIAL - - SUBJECT TO PROTECTIVE ORDER IN DOCKET NO. XX-XXX-XX (reflecting the appropriate docket number)." In situations where paper copies are filed, aAll copies of documents so marked shall be made on yellow paper.

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

d. **Use of Confidential Information and Persons Entitled to Review.** The Commission, Division of Public Utilities, and Office of Consumer Services shall be provided with Confidential Information and may use the Confidential Information as these agencies deem necessary to perform their statutory functions, provided they shall protect the confidentiality of the information as required by Utah law. Other than these state agencies, all Confidential Information made available pursuant to this rule shall be given solely to counsel for the participants (which may include counsels' paralegals, administrative assistants and clerical staff to the extent reasonably necessary for performance of work on the matter), and shall not be used nor disclosed except for the purpose of the proceeding in which they are provided and in accordance with this rule; provided, however, that access to any specific Confidential Information may be authorized by counsel, solely for the purpose of the proceeding, to those persons indicated by the participants as being their experts in the matter (including such experts' administrative assistants and clerical staff, and persons employed by the participants, to the extent reasonably necessary for performance of work on the matter). Persons designated as experts shall not include persons employed by the participants who could use the information in their normal job functions to the competitive disadvantage of the person providing the Confidential Information. The Commission, the Division of Public Utilities, and the Office of Consumer Services, and their respective counsel and staff, pursuant to the applicable provisions of Title 54, Utah Code Ann., the Rules of Civil Procedure and the Rules of the Commission, may have access to any Confidential Information made available pursuant to this rule

or Protective Order and shall be bound by the terms of this rule, except as otherwise stated herein and except for the requirement of signing a nondisclosure agreement. Further, nothing herein shall prevent disclosure as required by law pursuant to interrogatories, administrative requests for information or documents, subpoena, civil investigative demand or similar process, provided, however, that the person being required to disclose Confidential Information shall promptly give prior notice by telephone and written notice of such requirement of disclosure by electronic mail facsimile and overnight mail to the person that provided such Confidential Information, addressed to the providing person and attorneys of record for such person, so that the person that provided the Confidential Information may seek appropriate restrictions on disclosure or an appropriate protective order. The disclosing person will not oppose action by, and will cooperate with the person that provided the Confidential Information to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Confidential Information.

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

The Nondisclosure Agreement may be in the following form:

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

f. Additional protective measures. To the extent a Providing Party reasonably claims that additional protective measures, beyond those required under this rule for Confidential Information, are warranted for certain highly proprietary, highly sensitive or highly confidential material (Highly Confidential Information), the Providing Party shall promptly inform the requester (Requesting Party) of the claimed highly sensitive nature of identified material and the additional protective measures requested by the Requesting Party. If the Providing Party and Requesting Party are unable to promptly reach agreement on the treatment of Highly Confidential Information, the Providing Party shall petition the Commission for an order granting additional protective measures. The Providing Party shall set forth the particular basis for: the claim, the need

for the specific, additional protective measures, and the reasonableness of the requested, additional protection. A Requesting Party and any other party may respond to the petition and oppose or propose alternative protective measures to those requested by the Providing Party. Disputes between the parties shall be resolved by the Commission.

g. Identification of Highly Confidential Information. All documents, data, information, studies and other materials filed in conjunction with a Commission proceeding, made available to proceeding participants, whether made available pursuant to interrogatories, requests for information, subpoenas, depositions, or other modes of discovery or otherwise, that are claimed to be Highly Confidential, shall be furnished pursuant to the terms of this rule or any superceding Protective Order, and shall be treated by all persons accorded access thereto pursuant to this rule or Protective Order, and shall neither be used nor disclosed by any recipient thereof except for the purpose of the proceeding in which it was obtained and solely in accordance with this rule or superceding Protective Order. All material claimed to be Highly Confidential shall be so marked by the person producing it by stamping or noting the same with a designation substantially as follows: "HIGHLY CONFIDENTIAL--SUBJECT OF UTAH PUBLIC SERVICE COMMISSION RULE 746-100-16," "HIGHLY CONFIDENTIAL--SUBJECT TO PROTECTIVE ORDER," or "HIGHLY CONFIDENTIAL--SUBJECT TO PROTECTIVE ORDER IN DOCKET NO. XX-XXX-XX (reflecting the appropriate docket number)." [In situations where paper copies are filed,](#) ^aAll copies of documents so marked shall be made on pink paper.