

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

Utah Administrative Code R746-1,
Amendment to Enact Provisions Consistent
with the Open and Public Meetings Act, to
Clarify Requirements that Apply to Persons
Granted Intervenor Status, and Clarify
Requirements that Apply to Attorneys
Appearing before the PSC but not Licensed
with the Utah State Bar

DOCKET NO. 17-R001-01

RESPONSE TO COMMENTS AND
NOTICE OF REPLY COMMENT
DEADLINE

ISSUED: September 21, 2017

On August 8, 2017, the Public Service Commission of Utah (PSC) filed with the Utah Division of Administrative Rules a rule amendment that would obligate intervenors in a formal administrative proceeding to comply with any scheduling order issued in the proceeding.¹

On September 14, 2017, the Utah Industrial Energy Consumers (UIEC) filed an objection to the proposed rule amendment. Specifically, UIEC stated that the PSC had failed to provide adequate information regarding the purpose of the rule and the reason for the change. Without such information, it might appear to potential intervenors that the PSC is attempting to limit the degree to which intervenors are permitted to participate in formal proceedings. UIEC also argued that allowing an intervenor to file comments does not impact the orderly and prompt adjudication of administrative proceedings and, therefore, should not be restricted.

We understand UIEC's concerns. While the purpose of the rule that accompanied the rule filing satisfies the requirements of Utah Code Ann. § 63G-3-301(8)(b), we hope the following clarifications are helpful.

¹ The proposed amendment also enacted provisions consistent with the Open and Public Meetings Act and clarified requirements that apply to attorneys appearing before the PSC, but not licensed with the Utah State Bar. No interested person has filed comments regarding these aspects of the proposed amendment; therefore, the PSC does not discuss them in this response.

One goal we always pursue is to assess all sources of relevant information in our proceedings. In the interest of that goal we generously allow public comment from any non-party. A person who is granted intervention in a formal proceeding becomes a party. Becoming a party carries both rights such as cross examination and discovery, and responsibilities related to the "orderly and prompt conduct"² of the proceeding. Under the proposed rule, a party who desires to enter either comments or legal briefs into the record simply has the modest responsibility to do one of two things: either (1) attend the scheduling conference and advocate for the inclusion of comments or legal briefs into the scheduling order; or (2) petition for an amendment to the scheduling order. In other words, the proposed rule does not in any way prohibit or restrict the ability of the PSC to receive comments or legal briefs. In practice, the only result is that parties will have to request the type of participation they seek. This requirement advances both transparency and the "orderly and prompt conduct" of proceedings.

We hope this clarification alleviates UIEC's concerns. We will accept reply comments regarding the proposed rule amendment and will delay the effective date of the rule until any reply comments are reviewed. Reply comments shall be filed by **Monday, October 16, 2017**.

² Utah Code Ann. § 63G-4-207(2)(b).

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DATED at Salt Lake City, Utah, September 21, 2017.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Jordan A. White, Commissioner

Attest:

/s/ Gary L. Widerburg
Commission Secretary
DW#296888

CERTIFICATE OF SERVICE

I CERTIFY that on September 21, 2017, a true and correct copy of the foregoing was served upon the following as indicated below:

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