

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 06R-164ALL

IN THE MATTER OF THE EMERGENCY AMENDMENTS TO THE RULES OF PRACTICE
AND PROCEDURE, 4 CCR 723-1.

DECISION ADOPTING EMERGENCY RULES

Mailed Date: March 29, 2006

Adopted Date: March 29, 2006

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission to consider adoption of emergency rules amending the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

2. The Commission's new Rules of Practice and Procedure adopted in Docket No. 03R-528ALL are scheduled to become effective on April 1, 2006. The emergency rules adopted by this Decision are also intended to become effective on April 1, 2006 and are intended to amend and supersede the rules adopted in Docket No. 03R-528ALL.

3. For the reasons set forth in this decision, we now adopt on an emergency basis (*i.e.*, without compliance with the rulemaking requirements for permanent rules set forth in § 24-4-103, C.R.S.) the rules appended to this order as Attachment A. We take this action in accordance with the provisions of §§ 40-2-108(2) and 24-4-103(6), C.R.S.

4. The Basis, Purpose, and Statutory Authority statement introducing the rules is amended to delete superfluous language.

5. Rule 1004(ee) is amended to include movers in the definition of transportation carrier.

6. Rule 1007(a) is amended to delete the default advisory designation of staff, to delete the exception pertaining to the Director, and to mandate that staff's entry of appearance list those staff members that the Director or the Director's designee has assigned as trial advocacy staff and advisory staff.

7. Rule 1205 is amended to require that service shall include service upon the Commission's assigned trial advocacy and advisory staff.

8. Rule 1206(f)(II)(H) is amended to reflect that, when a utility files an application for a tariff change on less than 30 days notice which may result in a rate increase, the newspaper notice published by the utility shall indicate that any person filing a written objection or an intervention must file the objection or intervention at least one day prior to Commission action on the application.

9. Rule 1302(e) is amended to correct a faulty cross reference.

10. Rule 1303(a) is amended to reflect the correct rule reference for steam matters.

11. Rule 1304(b) is amended to delete the reference to steam matters.

12. Rule 1405(d)(I) is amended to require that, when an applicant files its testimony and exhibits with its application, an intervenor shall file its testimony and exhibits within 90 days of the filing of the application.

13. The emergency rules attached to this order shall be effective on April 1, 2006, shall amend and supersede the rules adopted in Docket No. 03R-528ALL. The emergency rules

adopted in this docket shall remain in effect until the permanent version of the attached rules become effective, or for 210 days, whichever period is less.

II. ORDER

A. The Commission Orders That:

1. The rules appended to this decision as Attachment A are hereby adopted as emergency rules, consistent with the above discussion.

2. The effective date of the emergency rules adopted in this decision shall be April 1, 2006.

3. This Order is effective upon its Mailed Date.

B. **ADOPTED IN COMMISSIONERS' WEEKLY MEETING March 29, 2006.**

(S E A L)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

CARL MILLER

Commissioners

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-1

PART 1

RULES OF PRACTICE AND PROCEDURE

BASIS, PURPOSE, AND STATUTORY AUTHORITY.

The basis and purpose of these rules is to advise the public, regulated entities, attorneys, and any other person of the Commission's rules of practice and procedure. These rules of practice and procedure are promulgated in order to properly administer and enforce the provisions of Title 40 of the Colorado Revised Statutes and in order to regulate proceedings before the Commission. ~~Some other rules have been relocated to these rules. All rules are under consideration.~~

The statutory authority for these rules is found in §§ 40-2-108, 40-6-101(1), 40-6-108(2), 40-6-109(5), 40-6-109.5, and 40-6-114(1), C.R.S.

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[signifies omission of unaffected rule sections]

1004. Definitions.

The following definitions apply to all Commission rules, except where a specific rule or statute provides otherwise:

* * *

- (ee) "Transportation carrier" means a motor vehicle carrier as defined in § 40-10-101(4), C.R.S., a contract carrier as defined in § 40-11-101(3), C.R.S., an interstate carrier as defined in §§ 40-10-120 and 40-11-115, C.R.S., a towing carrier as defined in § 40-13-101(3), C.R.S., a mover as defined in § 40-14-102(9), or a motor vehicle carrier exempt from regulation as a utility as defined in § 40-16-101(4), C.R.S., when subject to regulation.

* * *

1007. Commission Staff.

- (a) When Commission staff enters an appearance in any docketed proceeding other than an administrative docket, rulemaking, or interpretive rulemaking, Commission staff's entry of appearance shall specify those Commission staff members designated assigned by the Director or the Director's designee to serve as trial advocacy staff in the proceeding. ~~The entry of appearance may list those Commission staff members serving as and~~ advisory staff. ~~Any~~

~~Commission staff, except the Director, not specifically designated as trial advocacy staff shall be deemed advisory staff.~~

* * *

1205. Service.

- (a) A person filing any pleading or other document, shall also serve a copy, including all supporting attachments or exhibits, upon every other party and amicus curiae in the proceeding, except that the Director shall serve a complaint as provided in rule 1302(g). Such service shall include service upon the Commission's designated-assigned trial advocacy and advisory staff. ~~Service need only be made on advisory staff explicitly listed in trial advocacy staff's pleadings.~~ Except as provided in rule 1205 (b) and rule 1302(g), service shall be made by hand or through mailing on the same day the document is filed, unless a party expressly agrees by a signed waiver to accept service via fax or electronic mail.

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1206. Notice – Generally.

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- (f) A utility other than a railroad or transportation utility filing an application for a tariff change on less than 30 days notice, which tariff change will potentially result in a rate increase, shall:
- (I) Within three days after filing the application, publish one notice of the application in at least one newspaper of general circulation, which notice shall be three columns wide and five inches high.
 - (II) Ensure that newspaper notice contains:
 - (A) the name and address of the utility;
 - (B) a statement that the utility has filed with the Colorado Public Utilities Commission an application to change its tariffs on less than 30 days notice;
 - (C) a statement explaining the classes or types of tariffs proposed to be changed, and explaining which customers will be affected by the proposed change;
 - (D) the proposed tariff's effective date;
 - (E) a statement of the purpose of the application, including an explanation of the changes proposed;
 - (F) a statement that the application is available for inspection at each local office of the utility and at the Colorado Public Utilities Commission;
 - (G) a statement that any person may file with the Commission a written objection to the application, or an intervention to participate as a party, and an explanation

that a mere objection without an intervention shall not be adequate to permit participation as a party;

- (H) a statement that any person filing a written objection or an intervention must file the objection or intervention at least one day prior to ~~the proposed effective date~~ Commission action on the application; and
- (I) that any person may attend the hearing, if any, and may make a statement under oath about the proposed tariff, even if such person has not filed a written objection or intervention.

* * *

1302. Formal Complaints.

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- (e) In accelerated formal complaint proceedings, in addition to the provisions of this rule, parties shall comply with the following rules, if applicable: 1205(b); 1308(b); 1308(c); 1400; 1405~~(b)(c)~~; and 1409(b).

* * *

1303. Applications.

- (a) An application may be made as follows:

- (I) Telecommunications matters, as provided in rule 2002.
- (II) Electric ~~and steam~~ matters, as provided in rule 3002.
- (III) Gas matters, as provided in rule 4002.
- (IV) Water matters, as provided in rule 5002.
- (V) Transportation carrier matters, as provided in rule 6002.
- (VI) Rail matters, as provided in rule 7002.

(VII) Steam matters, as provided in rule 8002.

* * *

1304. Petitions.

A petition may be made as follows:

- (a) Telecommunications matters, as provided in rule 2003.

- (b) Electric ~~and steam~~ matters, as provided in rule 3003.
- (c) Gas matters, as provided in rule 4003.
- (d) Water matters, as provided in rule 5003.
- (e) Transportation carrier matters, as provided in rule 6003.
- (f) Rail matters, as provided in rule 7003.
- (g) Petition for rulemaking, as provided in rule 1306.
- (h) Petition seeking a waiver or variance of any rule, as provided in rule 1003.
- (i) Petition seeking a declaratory order.
 - (I) A person may file a petition for a declaratory order either in an original or a pending proceeding.
 - (II) The Commission may issue a declaratory order to terminate a controversy or to remove an uncertainty affecting a petitioner with regard to any tariff, statutory provision, or Commission rule, regulation, or order.
 - (III) At its discretion, the Commission may grant, deny, or dismiss any petition seeking a declaratory order.

* * *

1405. Discovery and Disclosure of Prefiled Testimony.

* * *

- (d) In application proceedings set for hearing, unless the Commission orders otherwise, a party shall file and serve its testimony and exhibits as follows:
 - (I) If the applicant files its testimony and exhibits with its application, then an intervenor shall file its testimony and exhibits within 60-90 days of the filing of the application.
 - (II) If the applicant does not file its testimony and exhibits with its application, then:
 - (A) the applicant shall file its testimony and exhibits within 60 days after filing the application, and
 - (B) an intervenor shall file its testimony and exhibits within 45 days of the filing of the applicant's testimony and exhibits.

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