

**PUBLIC UTILITIES RULES  
OF PRACTICE AND PROCEDURE**

**OF  
MISSISSIPPI PUBLIC SERVICE COMMISSION  
AND  
PUBLIC UTILITIES STAFF**

**EFFECTIVE: April 3, 2011**

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## **Title 39: Utilities**

### **Part I: Procedural and Practice Text**

#### **Chapter 01 Applicability, Repealer and Other General Provisions**

##### **Rule 1**

###### **100 Applicability**

These rules shall govern all practice and procedure before the Mississippi Public Service Commission relating to all public utility matters. These rules are not, by their terms, applicable to Commission proceedings concerning pipeline safety matters nor do they define or replace existing substantive rules governing public utility service obligations. Nothing in these rules shall be construed as affecting those matters over which the Commission has no jurisdiction, including but not limited to those specified in Miss. Code Ann. §77-3-1 and §77-3-5.

These rules incorporate procedures governing the Public Utilities Staff, which is a state agency independent of the Public Service Commission. Miss. Code Ann. §77-2-9 provides, in part, that it shall be the duty of the Executive Director to "formulate written policies and procedures for the effective and efficient operation thereof." Since the duties and responsibilities of the Public Utilities Staff are an integral part of the utility regulatory process, appropriate procedures applicable to the Public Utilities Staff are necessarily incorporated herein, upon recommendation by the Executive Director, to achieve cohesive and complete Rules of Practice and Procedure.

###### **101 Statutory Terms Control**

Specific statutory provisions which govern the Commission or the Staff which are in conflict with any of the rules herein shall continue to be applied to all proceedings of the Commission or Staff to the extent of such conflict only.

###### **102 Liberal Construction/Deviations From Rules**

These rules will be liberally construed to secure just, speedy and economical determination of all issues presented to the Commission. Unless prohibited by statute, the Commission may for good cause shown, permit deviation from these rules when it finds compliance with them is impractical, unnecessary, unreasonably burdensome, impossible or not in the public interest.

###### **103 Waiver of Rights**

Except to the extent precluded by applicable law, a person may expressly waive any right conferred upon that person by any rule herein.

###### **104 Effective Date**

These rules shall apply to all proceedings filed on or after October 17, 2005.

**105 Prior Rules**

All prior rules of this Commission in conflict herewith are repealed to the extent of such conflict.

**106 Severability**

These rules are fully severable so as to provide that should any rule or rules, or any section or paragraph of any rule, be declared unlawful by any court of competent jurisdiction, then, in that event, the remaining rules shall continue to be in force and in effect and shall not be suspended, nullified or affected by such determination of unlawfulness.

**107 Citation**

In documents submitted to the Commission or issued by the Commission, these rules may be cited as RP. For example, Rule 6 may be cited as RP 6.

**108 Amendment of Rules**

These rules may be amended, supplemented or repealed at any time by the Commission subject to the provisions of Miss. Code Ann. §77-3-45; §25-43-1.101 et seq; §25-43-2.101 et seq; and 25-43-3.101 et seq.

## Chapter 02 Definitions

### Rule 2

For purposes of these rules, the following terms are defined as indicated:

- 100** “The Act” refers to Title 77, Chapter 3 of the Mississippi Code, as amended. Definitions contained therein are hereby incorporated into these Rules of Practice and Procedure.
- 101** “Appearance” means any act during the course of a proceeding by which a person, either in person or by counsel, recognizes and submits to the jurisdiction of the Commission for all purposes except where it is expressly stated to be limited to a particular purpose, such as challenging the jurisdiction of the Commission.
- 102** “Applicant” means any person filing or joining with others in filing an application.
- 103** “Certificate” means an Initial or Supplemental Certificate of Public Convenience and Necessity or Facilities Certificate, as the case may be, issued by the Commission.
- 104** “Commission” means the Mississippi Public Service Commission.
- 105** “Commission Attorney” refers to the attorney(s) employed to assist and advise the Commission.
- 106** “Commission Staff” refers to those individuals employed by the Commission pursuant to Miss. Code Ann. § 77-3-8.
- 107** “Complainant” refers to the person or entity whom initiates a complaint proceeding.
- 108** “Customer” means any person furnished utility service by a public utility.
- 109** “Declaratory Opinion” means an opinion rendered in accordance with the provisions of Miss. Code Ann. §25-43-2.103.
- 110** “Electronic Document” means any document created in digital format on a computer, in a format compatible with software in use by the Commission, and transmitted to the Commission via floppy disks, cd-rom, e-mail, facsimile or other electronic means implemented by the Commission.
- 111** “Executive Director” means the Executive Director of the Staff.
- 112** “Executive Secretary” means the Executive Secretary of the Commission.
- 113** “Filing Utility” means the public utility making a filing with the Commission through its Executive Secretary to initiate a proceeding.

- 114** “Filing” means any notice, application, formal request, formal complaint, petition or any other type of document filed with the Commission through its Executive Secretary.
- 115** “Interested Persons” means any persons entitled to notice of Commission proceedings as follows:
- 1.** In any proceeding filed by a utility other than a telecommunications utility, any person (a) presently holding a certificate authorizing it to provide utility service of the same type as that authorized, or proposed to be authorized, for the filing utility, and (b) which presently holds a certificate for the same type of utility service for a service area, any part of which lies within one mile of the area certificated, or proposed to be certificated to the filing utility; or (c) where known to the Petitioner, any person or entity currently providing utility service of the same type in the proposed area regardless of whether a Certificate has been issued by the Commission;
  - 2.** In any proceeding filed by a provider of telecommunications services, all other certificated providers offering the same type of telecommunications services, as entered into the utility database maintained by the Executive Secretary of the Commission;
  - 3.** In proceedings filed by non-utilities or proceedings initiated by the Commission or the Staff, any person having a substantial interest in the subject matter of the proceeding or whose rights and liabilities may be materially affected thereby;
  - 4.** In addition to the above, in the context of any rate proceeding filed under the provisions of RP 9 (Notice Filings), any person who was a party of record in the last proceeding in which a major change in rates was sought by the filing utility.
- 116** “Order” means a Commission action of particular applicability that determines the legal rights, duties, privileges, immunities or other legal interests of one or more specific persons. The term does not include a declaratory opinion.
- 117** “Party” is:
- 1.** The filing utility, petitioner, complainant or applicant;
  - 2.** The Public Utilities Staff in its capacity as a party;
  - 3.** Persons allowed to become an intervenor by Commission order;
  - 4.** Persons made a party by service of process upon them; and
  - 5.** The respondent.
- 118** “Person” means an individual, partnership, corporation, association, utility, body politic, water authority, receiver, governmental subdivision or unit thereof, or public or private organization or entity of any character, and includes another state and/or federal agency.

- 119 “Petitioner” means a person or entity filing or joining with others in filing a petition.
- 120 “Provision of Law” or “Law” means the whole or a part of the federal or state Constitution, or of any federal or state (i) statute, (ii) case law or common law, (iii) rule of court, (iv), rule or order of an administrative agency or (v) executive order.
- 121 “Public Witness” means a person not a party and not called by a party to testify at a hearing.
- 122 “Respondent” means a person against whom relief is sought, against whom a complaint is initiated or against whom action by the Commission is directed.
- 123 “Rule-Making” means the process for formulation and adoption of a rule.
- 124 “Service” or “Served” is defined in Miss. Code Ann. §25-43-1.106 and is discussed in RP 6 of these rules.
- 125 “Staff Attorney” means the General Counsel and other attorneys for the Staff.
- 126 “Staff” means the Public Utilities Staff created pursuant to Miss. Code Ann. §77-2-1 et seq.
- 127 “Transcript” includes a written transcript, a printed transcript, an audible audiotape or videotape that is indexed and annotated so that it is readily accessible and any other means that the Commission has provided for the reliable and accessible preservation of the proceeding.
- 128 “Utility Attorneys” means the attorneys for the filing utility.
- 129 “Utility” means any person subject to the regulatory jurisdiction of the Commission.
- 130 “Verify” means the signing of a document before a notary public and under oath.
- 131 “Written” includes printed, handwritten, typewritten, electronic e-mail document, fax document or any other intentional reduction to readable form.



## **Chapter 03    Organizational Description**

### **Rule 3**

#### **100    General**

This rule is adopted in compliance with the Mississippi Administrative Procedures Law. (Miss. Code Ann. §25-43-1.101 et seq; 25-43-2.101 et seq; and 25-43-3.101 et seq).

#### **101    Commission Organization**

The Commission consists of a three-member panel, one to be elected from each of the three (3) Supreme Court districts. The Commission exercises exclusive original jurisdiction over the intrastate business and property of public utilities, subject to and in accordance with the Act. The Commission employs an Executive Secretary, attorney, administrative and investigative staff.

The Commission provides a thorough and efficient regulatory process that is fair, open, encourages public participation, and anticipates the demands of an evolving regulatory environment.

The Commission is located in downtown Jackson, Mississippi, at 501 N. West Street, Suite 201A, with access from I-55. Upon entering the building, please see the receptionist or guard to sign in and obtain a visitor's pass. The Commission's hearing room is located on the First floor and the public records room or the office of the Executive Secretary is located on the Second floor. Parking, including special needs parking, is available upon entering the parking garage.

#### **102    Commission Duties**

The functions of the Commission are regulatory and quasi-judicial in nature. The Commission may conduct investigations and make determinations, hold such hearings, prescribe such rules and issue such orders with respect to the control and conduct of the utilities coming within its jurisdiction. The Commission may adjudicate all proceedings brought before it in which the violation of any law or rule administered by the Commission is alleged. The Commission is charged by law with the duty and authority to regulate the rates and services of certain public utilities. These public utilities, as defined by the Act, include persons and corporations providing electricity, natural and/or artificial gas, water, sewer and telephone services to or for the public for compensation. The Commission does not provide these services directly but regulates persons and entities who do provide the services. This regulatory authority may be generally described as falling into the following areas:

##### **1.    Certificates of Public Convenience and Necessity**

The Commission decides questions relating to the granting, revocation, sale, transfer, merger, assignment, leasing or cancellation of certificates.

## **2. Rate Proceedings**

The Commission determines the lawful rates and other authorized charges to be collected by any non-exempt public utility for the rendition of services specified in Miss. Code Ann. §77-3-3. This ratemaking authority does not extend to rates charged for the sale or leasing of appliances by public utilities or their non-regulated or non-jurisdictional activities.

## **3. Service Obligations**

The Commission promulgates rules and regulations governing the manner and terms by which public utilities provide services to the public pursuant to their certificate.

## **4. General Oversight**

The Commission exercises general oversight authority over all regulated phases of public utility operations for the purpose of promoting the public interest consistent with the goals of the Act. The Commission has additional responsibilities concerning the regulation and oversight of gas pipeline safety, but these functions are handled under separate rules and regulations.

### **103 Staff Organization**

The Staff, created pursuant to Miss. Code Ann. §77-2-1, et seq., is completely separate and independent from the Commission. The Staff is under the operational and administrative control of the Executive Director. The Staff consists of professionals in the areas of engineering, administration, economics and planning, finance, accounting, and law; supportive technical personnel, consisting of rate analysts, inspectors and statisticians; and supportive clerical personnel as authorized and appropriated by the Legislature.

### **104 Staff Duties**

The Staff represents the broad interests of the State of Mississippi by balancing the respective concerns of the residential, commercial, or industrial ratepayers, and the State and its agencies and departments, and the public utilities. The primary function of the Staff is investigative and advisory in nature. The employees of the Staff shall perform such duties as are assigned to them by the Executive Director.

The Staff, by and through the Executive Director reviews, investigates and recommends action to the Public Service Commission regarding, among other things: the reasonableness of proposed rates including automatic adjustment clauses; the service furnished by any public utility; certification matters; transfers, mergers, consolidations and combination of public utilities; contracts of public utilities with affiliates or subsidiaries; special contracts; regulations, rules and transactions; miscellaneous filings; and all other types of filings with the Commission.

The Executive Director of the Staff, utilizing the resources of its Staff, furnishes to the Commission, information and reports or conducts investigations and provides such other assistance as may be required in order to enforce the laws providing for the regulation of public utilities.

**105 Public Access Information**

The public may obtain information or make submissions or requests to the Commission by contacting:

**MISSISSIPPI PUBLIC SERVICE COMMISSION**

Executive Secretary  
Second Floor  
Woolfolk State Office Building  
Post Office Box 1174  
Jackson, MS 39215-1174  
Telephone: (601) 961-5432  
Facsimile: (601) 961-5448  
E-mail address: [efile.psc@psc.state.ms.us](mailto:efile.psc@psc.state.ms.us)  
Street address: 501 N. West Street  
Suite 201A  
Jackson, MS 39201

The public may obtain information or make requests to the Staff by contacting:

**PUBLIC UTILITIES STAFF**

Executive Director  
Third Floor  
Woolfolk State Office Building  
Post Office Box 1174  
Jackson, MS 39215-1174  
Telephone: (601) 961-5493  
Facsimile: (601) 961-5804  
E-mail address: [efile.mpus@psc.state.ms.us](mailto:efile.mpus@psc.state.ms.us)  
Street address: 501 N. West Street  
Suite 301B  
Jackson, MS 39201

## **Chapter 04    Records of the Commission and Staff made Public**

### **Rule 4**

#### **100 Commission Policy**

This rule is adopted pursuant to the requirements of the "Mississippi Public Records Act of 1983." (Miss. Code Ann. §25-61-1 et seq.). Except as provided or authorized by Miss. Code Ann. §25-61-9, 25-61-11, 77-3-79, 79-23-1 or as may be otherwise provided by law, all records of the Commission are hereby declared to be public property. All persons shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of such documents as are in the possession of the Commission and in accordance with reasonable written procedural rules adopted by the Commission.

#### **1. Informal Requests**

It is the policy of the Public Service Commission to encourage and promote public participation in Commission affairs and, toward that end, the Commission declares its desire and intent to promptly honor all requests for access to or copies of all documents in the possession of the Commission. Informal requests for information or documents may be made orally or in writing to the Executive Secretary of the Commission and all reasonable efforts will be made to comply promptly with such requests. Informal requests shall not be considered as requests made under the provisions of the "Mississippi Public Records Act of 1983."

#### **2. Formal Requests**

If desired, a formal request for documents may be made to the Commission pursuant to the provisions of this rule. The Commission's Executive Secretary is designated as the Public Records Compliance Officer.

##### **a. Form**

Such request shall be in writing and shall state or describe with particularity the documents being requested. A formal request for documents shall be designated as such and shall state its reliance upon this rule. The request should be addressed to the Commission's Executive Secretary at the addresses provided in RPs 3 and 5 herein.

##### **b. Charges**

In the discretion of the Executive Secretary of the Commission, a charge not to exceed fifty (50) cents per page plus an administrative cost may be imposed. Such charge includes the actual cost of searching, reviewing and/or duplicating records. An additional charge for mailing copies to the requesting person may be assessed. Fees pursuant to this rule may be required to be paid in advance of complying with the request pursuant to Miss Code Ann. §25-61-7.

**c. Copying**

All copying shall be done by the Commission. Original documents shall not be taken from the Office of the Executive Secretary for copying except by authorized personnel.

**d. Time**

Formal requests for documents shall be responded to on or before fourteen (14) working days from the date upon which the request is received by the Commission.

**e. Denials**

Any denial of a request for documents under the provisions of any applicable law or court decision shall be in writing and shall contain a statement of the specific reason for the denial. The Commission shall maintain a file of all denials of requests for public records which shall be in the possession and under the supervision of the Executive Secretary. Copies of all denials shall be maintained on file for a period of not less than three (3) years from the date upon which the denial was made. Any person desiring to inspect the file shall be allowed to do so upon written request to the Executive Secretary.

**3. Exempt Documents**

Any person or party who files or submits documentation with the Commission denoted as exempt pursuant to Miss. Code Ann. §25-61-9, 25-61-11, 77-3-79 and 79-23-1 shall provide a statement in accordance with RP 6 herein to the Commission at the time of filing which fully explains why the documents are designated as exempt.

Any document filed or submitted with the Commission which contains trade secrets or confidential commercial or financial information subject to the protection of any applicable law or court decision shall be clearly designated as such on its face and accompanying cover letter at the time of filing and shall be placed in an envelope other than white. Each page of each document shall be marked confidential. Upon request for copies of any documents so designated, the Commission shall notify the person or utility that filed the document. Thirty (30) days after such notice the document will be made available for public inspection pursuant to the terms of this rule unless the filing party shall have obtained a court order protecting such records as confidential pursuant to Miss. Code Ann. §25-61-9.

**4. Temporary Protective Orders**

During the course or conduct of any public or formal proceeding, the Commission may, for good cause shown, temporarily restrict or deny the public disclosure of any document which would otherwise become part of a public record or proceeding so as to allow for a judicial determination concerning its disclosure. Such order shall be upon such terms and conditions as are determined by the Commission.

**101 Staff Policy**

This rule is adopted pursuant to the requirements of the "Mississippi Public Records Act of 1983." (Miss. Code Ann. §25-61-1 et seq.). Except as provided or authorized by Miss.

Code Ann. §25-61-9, 25-61-11, 77-3-79, and 79-23-1, or as may otherwise be provided by law, all public records of the Staff are hereby declared to be public property. All persons shall have the right to inspect, copy or mechanically reproduce or obtain a reproduction of such documents as are in the possession of the Staff and in accordance with reasonable written procedures adopted by the Staff.

**1. Informal Requests**

It is the policy of the Staff to encourage and promote public participation in public affairs and, toward that end, the Staff declares its desire and intent to promptly honor all requests for access to or copies of all documents in the possession of the Staff. Informal requests for information or documents may be made orally or in writing to the Executive Director of the Staff, and all reasonable efforts will be made to comply promptly with such requests. Informal requests shall not be considered as a request made under the provisions of the "Mississippi Public Records Act of 1983."

**2. Formal Requests**

If desired, a formal request for documents may be made to the Executive Director of the Staff pursuant to the provisions of this rule.

**a. Form**

Such request shall be in writing and shall state or describe with particularity the documents being requested. A formal request for documents shall be designated as such and shall state its reliance upon this rule. The request should be addressed to the Executive Director at the addresses provided in RPs 3 and 5 herein.

**b. Charges**

In the discretion of the Executive Director, a charge not to exceed fifty cents (50) per page plus an administrative cost may be imposed. Such charge shall include the actual cost of searching, reviewing and/or duplicating records. An additional charge for mailing copies to the requesting person may be assessed. Fees pursuant to this rule may be required to be paid in advance of complying with the request pursuant to Miss. Code Ann. §25-61-7.

**c. Copying**

All copying shall be done by the Staff. Original documents shall not be taken from the Office of the Staff for copying except by authorized personnel.

**d. Time**

Formal requests for documents shall be responded to on or before fourteen (14) working days from the date upon which the request is received by the Executive Director.

**e. Denials**

Any denial of a request for documents under the provisions of any applicable law or court decision shall be in writing and shall contain a statement of the specific reason for the denial. The Staff shall maintain a file of all denials of requests for public

records which shall be in the possession and under the supervision of the Executive Director. Copies of all denials shall be maintained on file for a period of not less than three (3) years from the date upon which the denial was made. Any person desiring to inspect the file shall be allowed to do so upon written request to the Executive Director.

### **3. Exempt Documents**

Any person or party who submits documentation with the Staff denoted as exempt pursuant to Miss. Code Ann. §25-61-9, 25-61-11, 77-3-79 and 79-23-1 shall provide a statement in accordance with RP 6 herein to the Staff at the time of submission, which fully explains why the documents are designated as exempt.

Any document submitted to the Staff which contains trade secrets or confidential commercial or financial information subject to the protection of any applicable law or court decision shall be clearly designated as such on its face or accompanying cover letter at the time of filing and shall be placed in an envelope other than white. Each page shall be marked confidential. Upon request for copies of any documents so designated, the Staff shall notify the person or utility that filed the document. Thirty (30) days after such notice the document will be made available for public inspection pursuant to the terms of this rule unless the filing party shall have obtained a court order protecting such records as confidential pursuant to Miss. Code Ann. §25-61-9.

## **Chapter 05      Offices of the Commission and the Staff Docket and Other Meetings**

### **Rule 5**

#### **100 Office of the Commission – Office Hours - Fax Number – Mailing - Electronic and Street Address**

The principal office of the Commission is on the Second Floor of the Woolfolk State Office Building in Jackson, Mississippi. This office is open on business days excluding holidays, from 8:00 a.m. to 5:00 p.m. The mailing address, telephone number, facsimile number and e-mail address of the Commission are:

MISSISSIPPI PUBLIC SERVICE COMMISSION

Executive Secretary

Woolfolk State Office Building, Suite 201A

Post Office Box 1174

Jackson, MS 39215-1174

Telephone: (601) 961-5432

Facsimile: (601) 961-5448

E-mail address: [efile.psc@psc.state.ms.us](mailto:efile.psc@psc.state.ms.us)

Street address: 501 N. West Street

Suite 201A

Jackson, Mississippi 39201

All documents filed in all proceedings must be filed with the Commission at one of these addresses. The Commission's electronic address for its Internet homepage is [www.psc.state.ms.us](http://www.psc.state.ms.us).

#### **101 Public Access Computers**

The Commission maintains a computer which may be used by the public during the Commission's normal hours of operations and is located on the Second Floor of the Woolfolk State Office Building, 501 N. West Street, Suite 201A, unless information is confidential and otherwise exempt from public disclosure pursuant to applicable law.

The Staff maintains a computer accessible for public use during normal business hours for the retrieval of documents filed with the Commission or served upon the Staff and the paper copies of data requests and responses may be inspected and copied at the Office of the Staff unless information is confidential and otherwise exempt from public disclosure pursuant to applicable law. This computer is located on the Third Floor of the Woolfolk State Office Building, 501 N. West Street, Suite 301B.



**102 Office of the Staff – Office Hours - Fax Number – Mailing - Electronic & Street Address**

The office of the Staff is located on the Third Floor of the Woolfolk State Office Building in Jackson, Mississippi, and will be open on business days excluding holidays from 8:00 a.m. to 5:00 p.m. The mailing address, telephone number, facsimile number and e-mail address for the Staff are:

<b>PUBLIC UTILITIES STAFF</b>	and	<b>PUBLIC RECORDS</b>
<b>EXECUTIVE DIRECTOR</b>		<b>COMPLIANCE OFFICER</b>
Telephone: (601) 961-5493		Telephone: (601) 961-5489
Woolfolk State Office Building		
Suite 301B		
Post Office Box 1174		
Jackson, MS 39215-1174		
Facsimile: (601) 961-5804		
E-mail address: <a href="mailto:efile.mpus@psc.state.ms.us">efile.mpus@psc.state.ms.us</a>		
Street address: 501 N. West Street		
Suite 301B		
Jackson, Mississippi 39201		

**103 Commission’s Executive Secretary**

The Executive Secretary is the custodian of all public files, orders, minutes, dockets and other records of the Commission and may certify copies of papers, documents, records or minutes for purposes of appeal and other official matters. The Executive Secretary is responsible for service of all orders, notices, summonses of the Commission and of all complaints filed with the Commission. All written communications and documents that are intended to be part of an official Commission record (other than a hearing record) must be filed with the Executive Secretary. Information concerning proceedings before the Commission and its docket or the status of any matter before the Commission is available from the Office of the Executive Secretary. The Executive Secretary also performs other duties as directed by the Commission and as described in Miss. Code Ann. §77-1-15.

**104 Regular Meetings**

The Commission will hold regular meetings on the first Tuesday of each month where the Commission reviews pending cases on its docket. However, the Commission may, in its discretion, change the day of such meetings. These meetings are required to be held in Jackson, Mississippi, but may be recessed when desirable to any point within the State. Any regular meeting, not exceeding two in any year, may be pretermitted.

**105 Quorum**

Two members of the Commission shall constitute a quorum.

**106 Special Meetings**

Special meetings for the holding of hearings or for other purposes shall be held at such times and places within the State as the Commission shall, from time to time, fix and determine.

**107 Administration**

The Commission will be in continuous session for administrative purposes.

**108 Meetings Public**

All meetings and hearings of the Commission shall be open to the public with the exception of executive sessions held in conformity with the provisions of the Mississippi Open Meetings Law, Miss. Code Ann. §25-41-1 et seq.

**109 Ex Parte Communications**

Ex Parte Communications are governed by Miss. Code Ann. §77-2-13.

## Chapter 06 General Rules

### Rule 6

#### 100 Case Identity/Docket

Each matter coming before the Commission on a formal basis shall be known as a case, shall receive a Docket number and a concise title that is descriptive of the subject matter and shall be docketed accordingly. Thereafter, all papers filed with respect thereto shall bear such title and number and be likewise noted on the Public Utilities Docket.

#### 101 Utility Identification Number/Rejection of Filing/Required Paper Copies

Each utility subject to the jurisdiction of the Commission shall be assigned an identification number upon receipt of a Certificate of Public Convenience and Necessity. This identification number, after certification, must be provided on the first page of all petitions, pleadings, correspondence and other documents filed with the Commission.

The Executive Secretary may reject any filing made by a utility which does not list the identification number of a public utility upon notice of rejection to the filing utility. The Executive Secretary, upon accepting a filing which conforms to these rules, enters a stamped filed date on the first page of each document which designates the official filing date of the document. The Executive Secretary shall assign a docket number at that time. However, the electronic filing of a case with the Executive Secretary will not result in the publication and noticing of a proceeding until the requisite number of paper copies are received by the Executive Secretary.

#### 102 Filing of Documents

##### 1. Filing with the Commission Defined

The filing of petitions and other documents with the Commission shall be made by filing them with the Executive Secretary of the Commission no later than 5:00 p.m.

##### 2. Number Required

Unless otherwise provided, the original and twelve (12) copies of all Petitions, Prefiled Testimony, Exhibits, Motions, Pleadings of any nature and any other type of document (except for copies of maps, plans and specifications, see below) required or allowed to be filed under the provisions of these rules shall be filed with the Commission by transmitting a copy to the Executive Secretary. The Executive Secretary shall deliver eight (8) stamped filed copies to the Office of the Executive Director of the Staff.

##### 3. Methods for Filings and Submittals of Documents

###### a. Addresses

RP 5 provides the addresses, location and other information necessary to accomplish any manner of filing or submittal of documents;

###### b. Manner of filing

Methods of filing with the Executive Secretary and submissions to the Staff may be by delivering a copy to the Office of the Executive Secretary or the Office of the

Public Utilities Staff; by mailing a copy to the proper mailing address of each agency; or by transmitting electronically by facsimile or by e-mail;

**c. When Filing Is Complete**

Filing by mail or delivery is complete upon receipt by the Executive Secretary. The submittal of documents to the Staff is complete, where mailed or delivered, upon receipt by the Executive Director of the Staff. Filing by electronic means is complete when the electronic equipment being used by the Commission acknowledges receipt of the material. All persons filing or submitting documents via facsimile or e-mail must ensure that their equipment will receive the automatic acknowledgement from the Commission's and/or the Staff's equipment. The FAX equipment utilized must be configured so that the Transmission Verification Report can reflect an ok result. Otherwise, the filing or submittal is not complete until the filing party obtains an acknowledgement from the Executive Secretary of the Commission and/or the Executive Director of the Staff, where appropriate.

When transmitting by e-mail, the computer being utilized must have an active feature that will receive the Commission's or the Staff's automatic acknowledgement of the transmission. If the sender's equipment fails to receive the Commission's or Staff's automatic acknowledgement of a facsimile or e-mail, the filing is not complete until the filing party obtains an acknowledgement from the Commission and/or the Staff, where appropriate.

**d. Filing or Service of Documents by Facsimile and E-mail**

- i User's Guide** The Internet homepage of the Commission contains a user's guide for assistance in filing or serving documents by e-mail or facsimile. This website is [www.psc.state.ms.us](http://www.psc.state.ms.us). The user's guide provides detailed requirements for the filing and service of electronic files and documents.
- ii Size of Document** Documents filed or served by e-mail are limited to a size of no more than 10 mb per each transmission and must be in an adobe portable document format (PDF). CD ROMS are acceptable. All electronic documents must be provided in non-editable form.
- iii Requirement of Paper Copies** Within three (3) business days of transmittal of a document for filing by facsimile or e-mail, the requisite number of paper copies, as designated above, shall be furnished to the Executive Secretary of the Commission or to the Executive Director of the Staff, whomever is applicable.
- iv Electronic File Stamp** The Executive Secretary of the Commission will electronically file stamp date on a document for filing sent via e-mail. It is required that all senders of e-mail provide a return e-mail address for acknowledgment of the filing. All senders of e-mails or facsimile are required to have the capability to accept the acknowledgment of the Commission and of the Staff acknowledging receipt of the document(s).
- v Hours for Filings** All filings to the Executive Secretary must be made from the hours of 8:00 a.m. – 5:00 p.m. each day.

- vi Staff's Preference for Service of Documents Upon Staff** The Staff's preference is that where a party has e-mail capability, that e-mail is preferred over transmission by facsimile.
- vii Required Data** Documents filed utilizing e-mail or FAX must contain the sender's name, e-mail address, FAX number, along with their current mailing address and telephone number. Failure to comply with this requirement may result in the rejection of said filing.
- viii Documents Submitted Electronically To Staff** The same requirements specified in the user's guide regarding the utilization of FAX or e-mail shall apply to any document filed with the Commission or submitted to the Staff.
- ix Electronic Transmittal of Tariffs, including Compliance Tariff** In order to electronically transmit a tariff with the Commission or with the Staff, the individual sender must comply with the user's guide.

### **103 Combining Methods of Transmittal**

A party may use different methods of transmittal of documents within a case. Generally, there is no restriction on a choice of filing documents or serving documents, except that maps and engineering plans and specifications may not be faxed or e-mailed due to the oversized nature of these documents. See the user's guide on transmittals of documents by facsimile.

### **104 Signature Required**

#### **1. Who Must Sign**

All filings and data responses shall be verified. Every petition, motion or other document of a party represented by an attorney except for prefiled testimony, shall be signed by at least one attorney of record in that attorney's individual name, whose mailing address, facsimile number and e-mail address shall be stated. A party who is not represented by an attorney shall sign and verify that party's petition, motion or other document and state the party's mailing address, facsimile number and e-mail address, if available. The signature of an attorney or other person constitutes a certificate that they have read the document; that to the best of their knowledge, information and belief there is good ground to support it, and that it is not interposed for delay. The signature of an attorney who is not regularly admitted to practice in Mississippi, except on a verified application for admission pro hac vice, shall further constitute a certificate by the attorney that the foreign attorney has been admitted in the case in accordance with the requirements and limitations of Rule 46(b) of the Mississippi Rules of Appellate Procedure.

## **2. Sanctions**

If a petition is not signed, it may be rejected for filing with proper notification provided to the sender. All other documents which are not signed may be stricken from the record. Also, if a filing, motion or other document is not signed or is signed with intent to defeat the purposes of these rules, it may be stricken as sham and false and the proceedings may continue as though the filing, motion or other document had not been served. For willful violation of these rules, an attorney may be subjected to appropriate disciplinary action. Similar action may be taken if scandalous or indecent matter is inserted.

### **105 Specifications for Filing of Documents**

All documents and accompanying exhibits filed with the Commission or furnished to the Staff shall be legible and handwritten, printed, typewritten or furnished via electronic means, including by e-mail or facsimile. All documents shall be submitted on white eight and one-half inches by 11 inch (8½ x 11) paper with one and one-half inch left margins. The top margin on the first page of each document shall be no less than two and one-half inches. Right side margins shall be not less than one-half inch. All pages shall be consecutively numbered. Font size shall be no less than 10 point. All papers and exhibits shall be prepared on only one side of the paper. Maps, plans and specifications shall be filed to original scale.

### **106 Number of Maps, Plans and Specifications**

When a Mississippi Department of Transportation map is required by these rules to be filed, the original and two (2) copies of the map, of original scale, shall be filed with the Executive Secretary of the Commission. The original and one (1) copy of all other oversized maps, plans and specifications, of original scale, shall be filed with the Executive Secretary of the Commission. The Executive Secretary of the Commission shall forward one (1) copy of each to the Executive Director of the Staff.

### **107 Defective, Insufficient or Late Pleading**

Defective, insufficient or late pleadings may be returned or dismissed.

### **108 Electronic Docket**

The Commission maintains an electronic docket via the link, "Docket," on its Internet homepage which reflects all pending proceedings.

### **109 Filing of Confidential or Exempt Document**

#### **1. Purpose and Scope**

The purpose of this rule is to discourage the practice of filing non-confidential information confidentially, while providing a fair procedure for utilities and other filers to protect truly confidential information such as trade secrets or sensitive financial information. The Commission prefers that information be filed publicly, rather than confidentially. This Rule shall not be construed to protect information to any greater degree than that already afforded by applicable Mississippi law, including the Mississippi Public Records Act, Miss. Code Ann. § 25-61-3, -9. Before any information is filed confidentially pursuant to this Rule, the utility or other filer shall

consider whether such information would be deemed confidential under any other applicable state or federal law. If the information would not be confidential under any other applicable law, then the information shall not be filed confidential pursuant to this Rule.

## **2. Definition**

“Confidential information” means information, documents, or records that are of a confidential or proprietary nature pursuant to Mississippi or other applicable law.

## **3. Trade Secrets**

Pursuant to Miss. Code Ann. §75-26-3, “trade secrets” may be confidential and may include but are not limited to, information, including a formula, pattern, compilation, program, device, method, technique or process, that: (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

## **4. Specific Items**

- a. Information included in a rate schedule pursuant to Miss. Code Ann. § 77-3-35 is not confidential and shall not be treated as such.
- b. Any confidential information or items that can be reasonably redacted from any document or material shall be so redacted, and the document or material shall be filed publicly without seeking a confidential designation. The utility or other filer must still comply with the applicable justification requirements of section 6(b) of this Rule.
- c. In accordance with Miss. Code Ann. § 79-23-1(1), (2), and § 25-61-9(1), information related to the establishment of, or changes in, rates regulated by the Commission shall be presumed to be accessible public records. If a utility considers such information confidential, the utility shall follow the procedures set out in section 4(b) or section 6 of this Rule.
- d. Information that has been publicly filed in any other forum (for example, but not limited to, the Federal Energy Regulatory Commission, with the clerk of a court, or other agency) shall not be filed as confidential under this Rule.
- e. If a utility seeks confidential designation for any information filed in response to a data request, the utility shall follow section 6(c) of this Rule.

## **5. Required Placement In Envelope**

For paper copies, the page(s) containing the trade secret or confidential information shall be placed in an envelope other than white. Each page placed in the envelope shall be marked as “TRADE SECRETS” or “CONFIDENTIAL”.

## 6. Procedure

- a. Unless redacted and filed in accordance with section 4(b) of this Rule, whenever a party considers information contained in pleadings or other documents are trade secrets, confidential or otherwise exempt from public disclosure, the party shall designate that the information is protected by law from public inspection, examination or copying. Trade secrets or confidential information contained in documents will be removed and replaced by the filing party with a page marked: “This document contains trade secrets or confidential information and is separately filed.” All information for which no assertion of protection from public inspection, examination and copying is made will be placed in files available for public inspection. Trade secrets, confidential information and other records exempt from public inspection shall be separately stored in a secured location with limited access and safeguarded from unauthorized disclosure.
- b. A filing seeking confidential designation of information must be made, in writing no later than simultaneously with the submission of said information. The utility or any other filer shall provide the legal and factual basis for its assertion that the information qualifies as either confidential or a trade secret pursuant to Mississippi law and shall state why the information cannot be reasonably redacted and filed publicly. The justification by the utility or other filer for classification of the item as confidential or a trade secret must contain sufficient detail to permit a reasoned analysis by the Commission. If the Commission is unsatisfied with the justification, the Commission, at its sole discretion, may deny the confidential designation by written order, require the utility or other filer to provide further clarification or briefing or hold a hearing to resolve the confidential designation issue.
- c. Data Requests. If a utility or other party is required to submit confidential information pursuant to a data request, the information must be designated as confidential simultaneous with the filing of said information; however, a written justification of its confidentiality shall be submitted to the Commission within 14 calendar days after the information has been filed. If a utility or other party fails to provide written justification, the Commission, at its sole discretion, may deny the confidential designation by written order, require the utility or other party to provide justification or briefing or hold a hearing to resolve the confidential designation.
- d. A utility may petition the Commission for a waiver of the justification requirement for particular sections of certain routine filings. Waivers can only be granted for a period of time not to exceed three (3) years. Waivers can be rescinded by the Commission at its discretion and for any reason. The Commission may require conditions to be met by the utility prior to granting a waiver. Conditions may include, but are not limited to:
  - 1) Filings which are made on a recurring or periodic basis; or
  - 2) Information which has regularly been classified as confidential by the Commission in the past.
- e. Once information is filed pursuant to and in satisfaction of this Rule, it will be treated as confidential. If the Commission denies the designation of information as



confidential or a trade secret, the information will be kept confidential until the time for filing an appeal from a Commission order has expired. If an appeal is filed, the Commission will keep the material confidential until judicial review is complete.

- f. No issue related to confidential designation shall constitute a basis to stay a docketed proceeding if the Commission and Staff have received access to the information in dispute and other parties have been given the opportunity to enter into protective agreements to obtain access to such information.

## **7. Protective Agreements**

In proceedings before the Commission involving trade secrets or other confidential information, parties may enter into protective agreements to facilitate and safeguard the exchange of necessary information. Protective agreements may include procedures for copying, exchanging, serving, safeguarding, or challenging the characterization of trade secrets or confidential information. The Commission and the Staff shall not be a party to protective agreements and will not be bound by the terms of protective agreements.

## **8. Review of Confidentiality**

- a. The Commission may, upon its own initiative, address the redaction or confidential designation of any information at any time. The Commission may determine the confidentiality of any information based solely on the justification submitted by the utility or other filer. The Commission may require any briefing from the utility or other filer it deems necessary to help the Commission resolve the confidentiality determination. The Commission may notice and hold any hearing it deems necessary to resolve the confidentiality determination.
- b. Except for the Public Utilities Staff, any party to a proceeding or any other person or entity that wishes to review or challenge the filing or designation of confidential information is referred to the Mississippi Public Records Act and Commission Rule 4.
- c. The Commission, at its sole discretion, may designate one of its members or attorneys, including any special assistant attorney general assigned to the Commission, to act as a hearing examiner regarding any and all matters relating to confidentiality. Such officer may exercise all authority held by the Commission in matters related to this Rule.

Source: Mississippi Code Annotated § 77-3-45.

## **110 Service of Copies**

Except as otherwise provided by these rules, one copy of all documents or pleadings required or allowed to be filed under the provisions of these rules shall be served upon all parties.

## **111 Certificate of Service Requested**

A party or his attorney, where applicable, shall sign a Certificate of Service stating

compliance with this rule and such shall be an exhibit to the filing made with the Executive Secretary.

## **112 Service of Documents**

### **1. Concurrent Service/Methods of Service**

Unless otherwise noted herein, documents which are required to be served on other persons or parties shall be served concurrently with the filing with the Executive Secretary. Service upon a party, service of orders, notices, pleadings, motions and other documents upon a party shall be made by delivering a copy to the party, by transmitting it to the party by electronic means, by facsimile transfer or e-mail, or by mailing to the party or other person at their last known address. Delivery of a copy means handing it to a party, leaving it at the office of a party with a person in charge thereof, or leaving it at the dwelling house or usual place of abode of the party with some person of suitable age and discretion then residing therein. Service by electronic means is complete when the electronic equipment being used by the party being served acknowledges receipt of the material. If the equipment used by the party being served does not automatically acknowledge the transmission, service is not complete until the sending party obtains an acknowledgement from the recipient. Service by mail is complete upon mailing. If a pleading or other document is served by mail, three days shall be added to the prescribed period in which the party being served has to respond or take other action with respect to the pleading. For purposes of service of documents under this section, the term "party" shall also refer to the Commission and the Staff.

### **2. Mandatory Service upon Attorney**

Whenever service is made upon a party who is represented by an attorney of record in the proceedings, the service shall be made upon such attorney.

## **113 Issuance of Order, Notice or Other Document or Service of Document**

An Order, notice or other document issued by the Commission, or a document served by the Commission or the Staff, shall be dated and deemed issued on the day it is served on the parties to the matter. Where the order, notice or other document is served by mail, said document must be dated and is deemed issued on the day it is mailed.

## **114 Incorporation by Reference**

Whenever in these rules it is provided that any statement, document, paper or data shall be filed with any pleading, if such statement, document, paper or data has already been filed with the Commission in some other proceeding, it shall be sufficient if this fact is stated and reference is made to the subject matter and docket number of the other proceeding, unless the Commission orders otherwise.

## **115 Foreign Corporation**

The initial pleading filed by any foreign corporation or foreign business entity shall clearly establish its authority to do business in this State by attaching a copy of such authority or incorporating by reference any theretofore filed authority. Said authority shall be in addition to any copy of the articles of incorporation or charter required to be included by these rules.

## **116 Process, Issuance of**

### **1. Procedure**

Upon the written motion of any party or his attorney, the Commission may issue subpoena(s), subpoena(s) duces tecum and all necessary process in proceedings pending before it. All process issued by the Commission shall be signed by the Chairman or Executive Secretary of the Commission, and the seal of the Commission shall be affixed thereto. In issuing all subpoenas, the original and all copies shall show at whose instance the subpoena is issued. All persons responding to process issued under this rule shall be entitled to the same per diem and mileage as witnesses attending the Circuit Courts in Mississippi. Such costs are to be borne by the party at whose instance the process is issued.

### **2. Subpoena(s) Duces Tecum**

Subpoena(s) duces tecum will be issued upon the written motion of a party or his attorney in the discretion of the Commission and then only when the motion sets forth as plainly as possible the books, accounts, papers or records desired to be produced and the purpose of their production. A party shall have twenty (20) days after service to respond to a subpoena duces tecum unless otherwise ordered by the Commission.

### **3. Deposit**

In its discretion, the Commission may require a deposit or other guarantee that the fees of witnesses and fees of officers serving process will be paid.

## **117 Process, Service of**

Subpoena(s), subpoena(s) duces tecum, notices, orders or other papers required to be served shall be served in any manner provided by law. Any person serving such process shall be entitled to the same fees as are paid for like services in the courts of this State and the cost shall be borne by the party at whose instance the process is served.

## **118 Continuing Jurisdiction**

All holders of Certificates of Public Convenience and Necessity as public utilities in the State of Mississippi are considered to be under the continuing jurisdiction of the Commission, and notice of any proceeding undertaken by the Commission can be made upon such certificated public utility by written notice to the public utility.

## **119 Depositions**

Depositions shall be taken only upon agreement of the parties pursuant to Miss. Code Ann. §77-3-51. The procedure for the taking and use of depositions shall be as set forth in the Mississippi Rules of Civil Procedure.

## **120 Attorney(s)**

### **1. Admitted to Practice in Mississippi**

Attorneys admitted to practice in the courts of this State may appear and represent parties in proceedings before the Commission (or such parties may appear in their own

person), and copies of all notices, documents and pleadings shall be served on its designated attorney or attorneys.

## **2. Not Admitted to Practice in Mississippi**

Attorneys not admitted to practice in the State of Mississippi may appear before the Commission only in compliance with the provisions of Rule 46 of the Mississippi Rules of Appellate Procedure.

## **121 Interventions**

### **1. When Allowed**

Upon timely motion, any person may be permitted to intervene in a proceeding when the movant has a substantial interest relating to the property, transaction or outcome of the proceeding at issue and the movant is so situated that the disposition of the proceeding may as a practical matter impair or impede his or her ability to protect that interest. Leave thus granted shall entitle the intervenor to the status of a party and to participate as a party, subject to such conditions as may be prescribed by the Commission.

### **2. Procedure**

A person desiring to intervene shall file a motion to intervene with the Commission, shall serve a motion to intervene upon the filing party and upon all other parties in the proceeding. The motion shall state the grounds and specific facts therefore. The motion shall be signed by the attorney appearing on behalf of a party or by the party himself and shall provide the movant's name, address, facsimile number and e-mail address, where available. The motion shall contain a certificate of service stating that service was made upon all parties of record. The movant shall attach a proposed order to the motion filed with the Commission.

### **3. Time For**

Motions to intervene shall be filed on or before twenty (20) days from the date the proposed intervenor receives actual notice or constructive notice of the proceeding, whichever occurs first. Constructive notice is given by the filing of a proceeding; however, if public notice thereof is published, then constructive notice is given by the last publication date.

### **4. Objections**

Any utility or party may file an objection to the intervention request within seven (7) calendar days of the filing of an intervention request. If no objection is timely filed and the Commission deems it proper, the Commission may enter an order allowing the timely intervention.

### **5. Late Interventions**

Motions to intervene not timely filed under this rule shall be allowed at the discretion of the Commission and only upon good cause shown. Except as otherwise ordered, a grant of an untimely motion to intervene must not be a basis for delaying or deferring any procedural schedule established prior to the grant of that motion. The Commission

may impose limitations on the participation of a late intervenor to avoid delay and prejudice to the other participants. Except as otherwise ordered, a late intervenor must accept the record of the proceedings as the record was developed prior to the late intervention.

#### **6. Other Parties**

The Commission may, in any proceeding pending before it, order that any person or corporation whose interest will be affected by the result of such proceeding be made or permitted to be made a party thereto. Thereafter, all those so made parties, or those permitted to be so made parties who avail themselves of such right, shall be entitled to have notice of hearings and be heard in person or by attorney, subject to such conditions as may be prescribed by the Commission in each case.

#### **7. Public Witness**

A public witness does not have the rights of a party to examine witnesses or otherwise participate in the proceedings. The Commission, in any proceeding before it, may allow public witnesses to introduce evidence at a hearing by written or oral statements and exhibits. A public witness's written or oral statements and exhibits may be subject to examination and objection.

#### **8. Furnishing of Filed Documents to Intervenor**

The person who initiated the filing shall upon written request provide the requesting intervenor with copies of documents previously filed by the party.

### **122 Data Requests and Responses**

#### **1. Filing of Data Requests and Responses Not Required**

Data requests and responses thereto shall not be filed with the Executive Secretary of the Commission, but shall be served as provided herein.

#### **2. Service of Copies**

Copies of all data requests shall be served on all parties to the proceedings. Four (4) copies of all data requests and data responses shall be provided to the Staff. The requesting party shall retain the original of the data request and become the custodian thereof. A copy of the response shall be served on the requesting party and on any other party who so requests in writing a copy, except the Staff shall be copied as previously stated. The responding party shall retain the original of the response to the data request and be the custodian thereof.

#### **3. Certificate of Service**

All copies of data requests served upon the parties in a proceeding shall contain a certificate of service.

#### **4. Responding**

##### **a. Time for Responding**

The party upon whom the data requests have been served shall furnish copies of the responses within twenty (20) days of the date of service or as ordered by the Commission. All copies of data responses shall contain a certificate of service.

**b. Manner of Responding**

When responding to data requests, the full text of the data request shall be set out preceding the response. Each shall be answered separately and fully in writing. Each set of data responses shall be signed under oath.

**5. Objecting**

**a. Objection to Data Request**

If a party objects to a data request, the full text of the data request shall be set out preceding the objection. The objection shall state with specificity the grounds therefore with respect to each item requested in the data request.

**b. Objection to Production of Documents**

Unless an objection to responding under this section is based on the ground that production would impose an undue burden, the objecting party must provide the party seeking discovery with a schedule of items withheld and a statement of:

- i** The character and specific subject matter of each item; and
- ii** The specific objection asserted for each item.

If an objection under this section is based on the ground that production of the requested material would impose an undue burden, the objecting party must provide the party seeking discovery with a description of the approximate number of documents that would have to be produced.

**6. Compelling Responses**

A party may, by Motion to Compel, apply to the Commission for an order compelling a response to a data request. Prior to filing a Motion to Compel, the requesting party shall discuss with the responding party the requesting party's intention to file such a motion, and both parties shall make a good faith effort to resolve their discovery dispute without the need of the Commission's intervention. If a Motion to Compel is sought, a copy of the data request at issue shall be attached to the Motion to Compel. All parties in the proceeding shall be served a copy of said Motion to Compel with attachments.

**7. Request for Waiver**

Where compliance with the portion of this rule regarding service of copies would be unreasonably burdensome, the responding party may file a motion for waiver of the normal manner of service. The Commission may, in its discretion, decide the request on a case by case basis.

**8. Part of Record**

Data requests and responses are not part of the record of the filing unless offered and admitted into evidence.

### **123 Computation of Time**

In computing any period of time prescribed or allowed by these rules, by order of the Commission, or by any applicable statute, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, as defined by statute, or any other day when the Commission's office or the Staff's office is in fact closed, whether with or without legal authority, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday or any other day when the Commission's offices or the Staff's office is closed. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. In the event any legal holiday falls on a Sunday, the next following day shall be a legal holiday.

Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice, order, pleading, motion or other document upon him and the notice or document is served upon him by mail, three days shall be added to the prescribed period.

### **124 Amended filings**

A party may amend the initial filing only by permission of the Commission or upon written consent of all other parties.

### **125 Dismissal of Proceedings**

#### **1. Stipulation of Dismissal**

A proceeding shall not be dismissed at the filing party's instance except upon order of the Commission and upon such terms and conditions as the Commission deems proper.

#### **2. Involuntary Dismissal**

The Commission may, upon its own motion or upon a motion by the Staff or by motion made by any other party, dismiss or remand to the files a proceeding for failure of the filing party to prosecute or to comply with any relevant provision of these rules, the Act or any Order of the Commission.

#### **3. Inactive Dockets**

Any application, petition, complaint, or other matter filed with the Commission in which no activity of record or written order is taken for a period of nine months shall be automatically dismissed without prejudice for lack of prosecution. However, a matter will not be dismissed for inactivity where a motion is pending before the Commission. Computation of the nine month period shall begin with the date of the last filing or other activity of record concerning the matter. In order to avoid automatic dismissal, a motion must be made or an order issued, properly signed and filed with the Commission before the nine month period expires. A party may file a motion to extend the time for an additional three months; however, the Commission, on its own motion, may extend or waive this portion of the rule to conclude the docket. For the purposes of this rule, activity of record shall include any application, petition,

complaint, motion, brief, or other pleading filed with the Commission as well as any hearing or oral argument held in this matter.

**126 Consolidation**

When proceedings before the Commission involve a common issue of law or fact, the Commission may consolidate all the matters at issue for hearing but may retain the right to issue separate orders. The Commission, in the interest of convenience or in the interest of economy, may order a separate hearing of any claim, request, counterclaim or of any issue presented to it.

**127 Orders**

All orders of the Commission shall be entered upon its minutes, and copies thereof shall be served upon all parties.

**128 Indexing of Final Orders and Declaratory Opinions**

Subject to any confidentiality provisions established by applicable law, all final orders of the Commission are available for public inspection and copying on the Commission's website. Orders are indexed by name and subject and a search engine is available for retrieval of said orders. The user's guide contained on the web page offers assistance on the retrieval of such documents.

All declaratory opinions issued by the Commission are available for public inspection and copying unless information contained within such opinions is confidential or otherwise exempt from public disclosure pursuant to applicable law. A search engine is available on the website of the Commission which indexes the declaratory opinions by name and subject. All declaratory opinions are designated as DO. A user's guide is available on the Commission's website address, [www.psc.state.ms.us](http://www.psc.state.ms.us), to assist the public in retrieving Final Orders and Declaratory Opinions issued by the Commission.

**129 Transcripts**

The original of all transcripts of proceedings held before the Commission shall remain in the possession of the court reporter(s) for the Commission so that in the event of an appeal notification, the original transcript may be used for that purpose. Any party may request a duplicate original of a transcript from the court reporter(s) at any time. The cost of the duplicate original shall be two dollars and forty cents (\$2.40) per page. The transcript shall be prepared in accordance with MRAP 11(c) such that the duplicate original transcript shall be accepted by a court and any other agency.

**130 Filing Costs Associated**

A filing party is responsible for all costs associated with its filing, including but not limited to, publication costs or any other type of costs.

**131 Annual Submittal of Utility Data**

Each utility currently operating in the State of Mississippi shall on or before July 1 of each year provide the Executive Secretary with the following current information for the maintenance of a master utility database:



1. current name;
2. current mailing address;
3. current telephone number;
4. current facsimile number and;
5. current contact person(s) and their e-mail address(es)

**132 Scheduling Orders**

The Commission, in its discretion, may enter a scheduling order in any proceeding.

## **Chapter 07    Certificate Proceedings**

### **Rule 7**

#### **100    Certificates to Operate**

No person shall provide public utility services as defined by the Act without first having obtained from the Commission a Certificate of Public Convenience and Necessity.

##### **1. Defined**

A certificate to operate shall constitute the initial authority of a person to operate a public utility in the State of Mississippi and shall contain, where appropriate, a specification of the nature of the public utility service authorized, the initial facilities to be used in the rendition of the services, and the initial geographical area or class of persons to whom the service is to be provided. The authority of a certificated public utility to provide services different in kind or character from that initially authorized shall be obtained under this rule by a petition for an amended or supplemental certificate to operate. Alterations, additions or extensions of the geographical area or areas initially certificated shall be authorized under the provisions of Section "B" of this rule. Authority for the construction or acquisition of additional capital facilities or plant shall be obtained under the provisions of Section "C" of this rule.

##### **2. Criteria**

A certificate to operate may be granted by the Commission upon petition and upon a showing (a) that the petitioner is fit, financially able and in good faith intends to provide such services; (b) that the public convenience or necessity requires the petitioner's operation; and (c) such other matters as the Commission deems relevant.

##### **3. Supporting Data**

A petition seeking a certificate to operate shall contain or be accompanied by the data and documentation shown in Schedule 1 of Appendix A.

##### **4. Failure to Begin Operations**

The Commission may in its order granting a Certificate of Public Convenience and Necessity include a provision that in the event that operations authorized under the certificate are not commenced within one hundred and eighty (180) days, the certificate will be automatically voided at the end of said period.

#### **101    Area Certificates**

Except as allowed by this rule or by the Act, no person shall provide or render any public utility service to anyone outside of the geographical area or areas certificated to that person by the Commission.

### **1. Petitions**

Petitions to enlarge, diminish or alter the boundaries of a certificated area shall be granted upon good cause shown and shall contain or be accompanied by the data and documentation shown in Schedule 2 of Appendix A.

### **2. Exceptions**

Exceptions to the requirements of this Section "B" may be granted by letter from the Commission or its Executive Secretary, and after receiving a written recommendation of the Executive Director of the Staff determining that the extensions of service outside the boundaries of the certificated area is:

- a. Less than one mile in length;
- b. With the written consent of any other affected utility; and
- c. Will not result in uneconomical duplication of facilities.

Exceptions granted under this rule shall be deemed to be by the continuing consent of the Commission and any affected utility, and the utility granted the exception shall not be deemed to have any vested interest or right to serve the area or customers involved.

## **102 Facilities Certificates**

No person shall construct, extend, acquire or operate any physical facility or plant to be used, directly or indirectly, in the operation of a public utility except in compliance with the provisions of this rule and the Act.

### **1. Defined**

A facilities certificate shall constitute the authority of a utility to begin the construction, acquisition or operation of additional physical facilities or plant to be used, directly or indirectly, for the provision of public utilities services for its existing certificated area.

### **2. Contents**

A petition seeking a facilities certificate shall contain or be accompanied by the data and documentation shown in Schedule 3 of Appendix A.

### **3. When Required**

A facilities certificate shall not be required except in the following instances:

- a. Prior to beginning construction of any facility for the generation and transmission of electricity to be directly or indirectly used for the furnishing of public utility service in this State;
- b. Prior to beginning construction of any facility projected to have a capitalized cost in excess of \$10 million or ten percent (10%) of the utility's existing jurisdictional net plant investment;

c. Prior to beginning construction of any facility outside the utility's certificated area unless written consent is obtained from all other affected utilities; or

d. If required by Commission order.

### **103 Notice to Staff and the Commission**

Notwithstanding any other provision of this rule to the contrary, prior to acquiring or beginning construction of any facility, plant or other capital item with a projected capitalized cost in excess of \$1,000,000 or one percent (1%) of existing jurisdictional net plant investment, the utility shall provide the original and three (3) copies of a notice of said project to the Executive Secretary of the Commission. The Executive Secretary shall deliver three (3) stamped copies to the office of the Executive Director of the Staff. The notice provided for herein shall contain or be accompanied by the data and documentation shown in Schedule 4 of Appendix A.

### **104 Suspension of Construction**

The Commission may, by incorporating a provision in its order granting a Facilities Certificate, suspend Commission authority for the construction or acquisition of a facility, plant or other capital item, whether previously certificated or not, upon failure by a utility to adhere to the provisions of this rule or an order of the Commission, or for its failure to timely provide the Commission, Commission staff or the Staff with any reasonable information requested concerning the cost, purpose or construction of the facility, plant or other capital item. Except as specifically allowed by order of the Commission, the related capital expenditures made during the period of suspension on the suspended construction or acquisition shall not be allowed in rate base during the period of such suspension nor shall Allowance for Funds Used During Construction (AFUDC) accrue on any such funds during any period of suspension.

### **105 General Provisions**

#### **1. Action on Non-Construction**

The Commission may in its order granting a Facilities Certificate, include a provision that in the event the construction authorized by the grant of the Facilities Certificate is not commenced within a certain period of time, as determined by the Commission to be appropriate under the facts and circumstances of the construction project, that the Facilities Certificate will be automatically voided at the end of said period.

#### **2. Selection of Area**

A petition on an area basis shall embrace areas selected by the petitioner which, in the petitioner's judgment, should be developed as a unit. In each instance, the petitioner shall consider in selecting the area to be requested, those characteristics that set it apart as a unit, such as the location of petitioner's facilities, facilities of other utilities, rivers, streams, creeks, swamps, highways, roads and the location and distribution of population. In area petitions, boundary lines, where practical, shall follow county lines, rivers, township or section lines, existing corporate limits or other clearly identifiable locations. In municipalities where less than the entire municipality is served by the petitioner, the boundaries shall follow corporate lines, streets, alleys, parks or other

established boundaries. Outside municipalities, the boundaries shall be established by metes and bounds, or by following county lines, township or section lines, rivers or streams (when named on Department of Transportation county maps) or other clearly identifiable locations.

**3. Interpretations of Area Boundaries**

Whenever under these rules an area is described in whole or in part by following the courses of rivers, streams, roads, highways, municipal corporate limits, canals or other locations that are susceptible to subsequent changes, such courses, both in the petition and in any certificate granted pursuant thereto, shall be understood and held to mean such courses as they exist upon the date the certificate is granted. Nothing in this rule shall be construed as infringing on the lawful jurisdiction of any municipality.

**4. Temporary Acts or Operations**

The Commission may authorize, by letter, temporary acts or operations of a utility upon notice to any other utility affected thereby.

**5. Initial Rates and Tariffs**

Prior to the rendering of any utility service to any customer by a utility, a request for the establishment of initial rates and tariffs shall be by separate filing pursuant to the provisions of RP 9. This paragraph shall not apply to any utility excluded from rate regulation pursuant to Miss. Code Ann. §77-3-1 and 77-3-5.

**6. Incomplete Filings**

Petitions for certificates that fail to comply with the requirements of these rules or that do not have attached to them the required supporting data will be docketed and assigned an identifying number, but the Commission may decline to consider said petition or dismiss it, sua sponte, until compliance is achieved.

**7. Exemptions**

Nothing contained herein shall be construed to require any certificate or notice from persons engaged in the production and gathering of natural gas, the sale of natural gas in or within the vicinity of the field where produced, the distribution or sale of liquefied petroleum gas or for the operation or construction of facilities and equipment utilized in such operations.

**8. Existing Certificates**

Nothing contained in these rules shall be construed so as to alter, expand or diminish the rights of any utility exercised under the authority of any certificate issued prior to the adoption of these rules.

**9. Hearings**

The Commission may grant a Certificate without a hearing in an uncontested case; however, the Commission may hear an uncontested case if it determines that the public interest will be served thereby. The Commission shall conduct a hearing on every

Petition seeking authority to construct any facility for the generation of electricity, as set forth in Miss. Code Ann. §77-3-14.

## **Chapter 08 Sale or Transfer Proceedings**

### **Rule 8**

#### **100 Commission Approval Required**

When any public utility proposes to sell, transfer, lease, assign or otherwise dispose of, including, without limitation, any change in control of (a) certificates of public convenience and necessity issued to them, or (b) any substantial part of its property necessary or useful in the performance of its duties to the public, including corporate stock that is not publicly traded, or to sell, or transfer any Certificate of Public Convenience and Necessity, or portion thereof, or by any means whatsoever, direct or indirect, proposes the merger, transfer or consolidation of its property, certificate or any portion thereof with any other public utility or to any person, firm or corporation, such sale, lease, assignment or other disposition must be approved by the Commission and the petition for approval must be made by all parties to the proposed transaction. This regulation applies to all direct or indirect transfers of utility property or certificates, including but not limited to, transfers of controlling interest in the corporate stock of an existing certificated utility to any person, firm, partnership or other corporation.

#### **101 Contents**

In addition to the requirements of any other rule, the petitioner must show in or have attached to the petition, the data and information described in Schedule 1 of Appendix B.

#### **102 Rate Adjustments**

Unless specifically requested in the petition and clearly allowed by the Commission's order, the approval of any sale or transfer by the Commission shall not, in and of itself, provide a basis or justification for any subsequent adjustment to rate base or operating expenses.

An acquisition adjustment shall not be implied or allowed except upon written request for same in the Petition for Sale and Transfer and only where expressly allowed by order of the Commission when it grants approval for the sale and transfer. If an acquisition adjustment is sought, all supporting documentation and legal authority must be attached to the Petition presented pursuant to this rule. Adjustments, if allowed, shall be by Order of the Commission.

#### **103 Criteria**

Approval of a transaction proposed pursuant to this rule and Miss. Code Ann. §77-3-23 may be granted by the Commission upon proper filing of a Petition and upon a showing (a) that the proposed transaction is in good faith; (b) that the proposed assignee, lessee, purchaser or transferee, is fit and able properly to perform the public utility services authorized by such certificate and to comply with all rules, regulations and requirements of the Commission, (c) that the transaction is otherwise consistent with the public interest, and (d) when a transaction involves facilities that are included in the rate base of a public utility, the Commission shall include, as a prerequisite to its finding that the transaction is consistent with the public interest, a finding that, upon the consummation of the transaction

proposed: (i)(a) the native load customers of the public utility will continue to have a first priority to the use and/or benefit of such facilities, or (i)(b) any loss of such first priority by native load customers to the use and/or benefit of such facilities is not contrary to the public interest; and (ii) any native load customers served by any transmission facilities shall be served on the same basis as before the transaction.

The Commission may condition its approval upon such terms and conditions as it finds to be just and reasonable and with such modifications as it may prescribe.

#### **104 Hearing**

The Petition may be granted as applied for without a hearing in uncontested cases; however, the Commission may hear any uncontested case if it determines that the public interest will be served thereby.



## Chapter 09 Rate Proceedings

### Rule 9

#### 100 Exclusive Method

All petitions for increases or changes in public utility rates or for the establishment of initial rates shall be by notice filing and shall be handled in accordance with the following provisions which describe the exclusive method of obtaining rate authority or changes, except as otherwise heretofore or hereafter ordered by the Commission.

##### 1. Routine Filings

###### a. Defined

Routine filings shall be such as do not involve substantial revenue adjustment and may go into effect after thirty (30) days notice to the Executive Secretary of the Commission and the Executive Director of the Staff or after such shorter period of notice as the Commission, for good cause shown, may allow.

###### b. Contents

Pursuant to Schedule 5 of Appendix C, requests for changes in, or establishment of rates and schedules properly designated as routine shall be accompanied by:

- i A clear, concise and nontechnical description of the nature of the service or change proposed;
- ii A statement of the reason or justification therefore; and
- iii Sufficient information to allow the determination of the approximate size of the revenue adjustment proposed.

##### 2. Standard Filings

###### a. Defined

Standard filings shall include all changes in rates and schedules (other than routine changes) in which the increase sought is less than a major change as defined in Miss. Code Ann. §77-3-37 (8).

###### b. Contents

Unless waived by Commission order, the standard documentation to be filed with or included in every notice of standard change shall be that shown in Schedule 1 of Appendix C. Compliance with this requirement shall be deemed by the Commission as adequate compliance with the requirements of Miss. Code Ann. §77-3-37 (1) and (2).

###### c. Form

Attached to these rules and regulations and designated as Appendix D is a form suggested for use by any utility in the filing of a standard notice of intent to change rates. Except as may be otherwise ordered, conformity with this form shall be deemed compliance with these regulations.

**3. Major Change under \$15 Million Filings**

**a. Defined**

The term "major change" is defined in Miss. Code Ann. §77-3-37 (8).

**b. Contents**

The standard documentation to be filed with or included in every notice of major change shall include all documentation referenced in Miss. Code Ann. §77-3-37 (2) and (5), and that reflected in Schedule 2 of Appendix C.

**4. Major Change of \$15 Million or More Filings**

**a. Defined**

The term "major change" is defined in Miss. Code Ann. §77-3-37 (8).

**b. Contents**

Unless the Commission, upon application by a utility and for good cause shown, shall enter an order waiving one or more of the following requirements referenced in this paragraph, then whenever a public utility files a notice of intent wherein an increase in the level of annual revenues in the amount of at least Fifteen Million Dollars (\$15,000,000.00) is sought, the standard requirement list of documentation shall include the documentation described in Miss. Code Ann. §77-3-37 (2),(4) and (5), and the data described in Schedule 3 of Appendix C.

**5. Initial Rate Filings**

**a. Defined**

Requests for the establishment of initial rates for a newly certificated public utility or, in the case of an existing public utility defined in Miss. Code Ann. §77-3-3 (d)(iv) for the establishment of rates applicable to a newly certificated area. Such requests shall be made prior to the rendition of service.

**b. Contents**

Such filings shall contain or be accompanied by the documentation shown in Schedule 4 of Appendix C.

**6. Temporary Rate Filings**

The Commission may permit any public utility to alter, amend or suspend temporarily any existing rates, schedules and orders affecting such public utility pursuant to Miss. Code Ann. §77-3-41.

**7. Miscellaneous Filings**

**a. Defined**

Miscellaneous filings are requests by existing certificated public utilities for (i) rate increases or changes which are based upon any emergency; (ii) a rate for a new service (which is neither a major change nor a standard filing) for which no rate has previously been established; or (iii) rate increases or changes which otherwise do not fall within the categories stated above.

**b. Contents**

Such filing shall be accompanied by sufficient information and documentation so as to allow for a full, fair and adequate evaluation of the merits of the requested change.

**101 Notice to Customers of a Filing for a Rate Increase**

**1. Required Information**

When a utility makes a standard filing under RP 9.100(2) or a filing for a major change under RP 9.100(3) or RP 9.100(4), the utility shall concurrently provide written notice of the filing to each affected customer, briefly summarizing the proposed changes in rates. If the utility employs monthly cycle billings, said notification may be included with or printed on bills of regular billing cycles beginning not later than nine (9) days after the date of filing and shall continue with each billing cycle until all affected customers are notified. If the utility does not employ monthly cycle billing, said notification may be included with or printed on the first monthly bill rendered subsequent to the filing date. Alternatively, any utility may notify all affected customers by U.S. Mail, postage pre-paid, within fifteen (15) days after the date of filing. The notice to customers required herein supersedes the notice requirement under Rule 6E of the Rules and Regulations Governing Public Utility Service.

**2. Filing of Verification of Notice to Customers**

The filing utility shall file a copy of the notice, along with a certificate with the Executive Secretary of the Commission, verifying that notice to each of the utility's affected customers was provided and providing the date the notice was provided.

**102 Designation**

The utility shall designate on the face of the Notice of Intent whether the filing constitutes one of the following types of filings:

1. Routine Filing
2. Standard Filing
3. Major Change Under \$15 Million Filing
4. Major Change of \$15 Million or More Filing
5. Initial Rate Filing
6. Temporary Rate Filing
7. Miscellaneous Filing

**103 Prefiled Testimony**

**1. Filing Utility**

All direct testimony, exhibits and other information which any utility relies upon in support of the proposed changes shall be filed concurrently with the filing of the Notice of Intent.

## **2. Staff and Intervenors**

The Staff and all intervenors shall file all direct testimony, exhibits and other information which is to be relied upon regarding the proposed changes within eighty (80) days from the filing of such Notice of Intent.

### **104 Additional Data**

In addition to the filing requirements set forth above, the Staff and/or the Commission or the Commission staff may require, in writing, the filing utility, or other party to supplement the above data with other information as they may deem necessary. Except for good cause shown, the utility shall provide such supplemental data and information within twenty (20) days of the date of the request.

### **105 Test Period**

The Notice of Intent shall clearly state the test period adopted by the public utility in support of its proposed rate changes.

### **106 Signature under Oath**

Every Notice of Intent and all prefiled testimony shall be signed by the certificate holder or a duly authorized officer or representative of the certificate holder or the person sponsoring the prefiled testimony verifying to the best of their knowledge, information and belief the accuracy of the information contained therein.

### **107 Effective Date**

Every filing to change or establish rates shall clearly designate the proposed effective date of said rates.

### **108 Water and Sewer Rate Cases**

Any utility operating both a water and sewer system shall, in filing for any rate relief, file separate and distinct notices and documentation for the water and sewer operations.

### **109 Calculations of Percentage Revenue Increase**

In determining whether or not a proposed rate increase is a major change as defined in Miss. Code Ann. §77-3-37 (8), “annual revenues” shall be defined as the projected total annual gross revenues from jurisdictional billings during the twelve (12) months following the proposed effective date without giving effect to the proposed increase.

### **110 Deficient Filings**

Deficient filings will be handled pursuant to §77-3-39 (16).

### **111 Suspension Order**

An order suspending operation of any proposed rate or rates pursuant to Miss. Code Ann §77-3-39(2) shall not operate to require subsequent public hearing on the proposed rates unless such hearing is required under the Act or these rules.

## **112 Effective Date of Increases**

Unless otherwise specifically ordered, a rate increase or change approved by the Commission shall not become effective until compliance tariffs have been filed with the Commission, and approved by order of the Commission. Provided however, this rule shall not apply to any change where, by Commission order or by operation of law, the change in rates is approved as filed.

## **113 Tariffs**

### **1. Form**

Tariff schedules of utilities must show the designation “Mississippi Public Service Commission” on their title page. Blank spaces approximately three by one and one-half inches (3” x 1-1/2”) each must be provided for the Commission’s stamp of filing and for the stamp of approval in the lower right and lower left corners of each schedule filed. A tariff, which consists of a schedule of rates, charges, terms and conditions, shall be filed by each public utility, except utilities excluded from rate regulation pursuant to Miss. Code Ann. §77-3-1 and 77-3-5, for each service rendered which is subject to the jurisdiction of the Commission. Unless otherwise provided in Appendix C, the original and twelve (12) copies of all tariffs other than compliance tariffs shall be filed with the Executive Secretary of the Commission and shall be three-hole punched. A separate schedule shall be filed for each class or each kind of service rendered, unless other provisions are made with the written approval of the Commission. Schedules shall be prepared utilizing the form established by the Commission which form appears on the Commission’s website or a substantially similar form approved by the Commission. Schedules shall be numbered consecutively for each kind of service for each class of customer beginning with Schedule 1.

Example: (i) For Electric service, Schedule 1, Schedule 2, etc.; Gas Service Schedule 1, Schedule 2, etc.; (ii) Schedules shall be numbered in the following order for various classes of service: Residential Service Schedule 1, Commercial Service Schedule 2, other classifications following in consecutive order.

Where more than one rate or tariff is available to any classification or service, any such sub-schedules or optional schedules shall be identified under the general schedule number and further identified by a letter suffix.

Example: Residential Lighting Schedule 1; Residential Heating and Cooking Schedule 1A; Residential Combined Lighting, Heating and Cooking Schedule 1B; Residential Offpeak Water Heating Schedule 1C; etc. Where rates are optional, the Schedule shall clearly indicate the optional feature.

### **2. Tariff Filing by Electronic Mail/Compliance with the Requirements of Filing Described in RP 6**

The Commission encourages public utilities to file their tariff schedules via electronic mail and utility companies must comply with the requisite number of paper copies according to RP 6.

**a. Electronic Tariffs**

For electronically filed tariffs, each utility shall submit its tariff schedules prepared in Adobe Acrobat in portable document format (PDF) as an attachment to an e-mail message sent to the Executive Secretary at [efile.psc@psc.state.ms.us](mailto:efile.psc@psc.state.ms.us). Electronic tariff schedules may also be submitted as PDF documents on appropriately formatted three and one-half (3.5) inch diskette, zip disk or CD-ROMs.

**b. Approval**

The Commission will stamp its approval in the space provided on each copy of an approved tariff, placing the original in its files and returning one (1) copy to the public utility.

**3. Contents**

Each tariff shall embody the following features unless they are not applicable to the kind, character or classification of service to which the schedule is applicable:

- a.** Title Sheet;
- b.** Index/Check Sheet to Tariff;
- c.** Kind of Service (Whether gas, electric, telephone, water, etc.);
- d.** Class of Service (Whether residential, commercial, etc.);
- e.** Availability of Service including a service extension policy (Defining the classification of premises or customers to which the schedule is available);
- f.** Character of Service (Where applicable-such as service voltage, phase and frequency of electric supply; the minimum heating value of gas supply, etc.)
- g.** Rate (Statement of rate to be charged, including definitions of any special terms and a statement of the method of determining special factors);
- h.** Minimum Charge;
- i.** Terms of Payment (a) Definition of various discounts available under the schedule, each being separately set out and defined; (b) Period after which charges become delinquent with accompanying late charges; (c) Practice and charges for restoring discontinued service provided that this feature need not be separately enumerated if covered in general rules and regulations or terms and conditions;
- j.** Special Conditions (A statement of special conditions required to be conformed to by customer before schedule is applicable);
- k.** Terms of Contract. (The minimum period for which service will be rendered under the schedule);

l. Service Rules regarding Deposits; and

m. Service Rules regarding all fees including, but not limited to, Connection fees, Reconnection and Disconnection Fees

**4. Service Extension Policy**

Each tariff shall include a Service Extension Policy. Each utility shall set forth in its tariff filed with the Commission the conditions and circumstances under which line extension or extensions of service will be made or for additional capacity needs of the system, including methods for computing contributions in aid of construction or impact fees. Copies of such provisions shall be kept on file in the local business office of the utility for public inspection. All contributions in aid of construction requested of a customer or developer by a utility shall be calculated so as to include the cost of any state or federal income taxes due on such contribution.

**5. Special Provisions**

Any special contracts, rates or agreements shall be filed with the Commission. The requirements of this rule will be complied with by submitting copies of any such contracts, together with all supplemental agreements, addendums, or correspondence in which any of the original terms are changed. Such contracts, or other documents, shall be numbered Schedule Special 1, Special 2, etc. It is the intention of this rule to require the filing of all rates, contracts or systems of charging for any class or kind of service not otherwise required.

**6. Filing of Compliance Tariffs**

The term “compliance tariff” means a tariff filed pursuant to an order of the Commission entered in a rate proceeding under RP 9 or pursuant to a Stipulation entered among all the parties in a rate proceeding. The original and two (2) copies of proposed compliance tariffs shall be filed by the utility with the Executive Secretary of the Commission. The Executive Secretary shall forward two (2) copies to the Executive Director of the Staff. A certificate of service shall be filed with the Executive Secretary of the Commission by the utility and shall have been signed under oath certifying that all parties of record have been furnished notice of the filing of the proposed compliance tariff and manner of such notice.

**7. Staff Review of Compliance Tariffs Filed Pursuant to Order**

When a utility files compliance tariffs with the Commission pursuant to an order of the Commission in a proceeding, the responsibility for reviewing the tariff submission to determine whether it complies with the Commission’s order is upon the Staff, which shall provide a Proposed Order approving such Tariff, where applicable.

**8. Response or Opposition to Proposed Compliance Tariff**

**a. Applicability**

These provisions apply to a rate proceeding which is contested or in which all the parties have not stipulated.

**b. Time for Filing Opposition**

Any party, other than the Staff, who desires to oppose the proposed compliance tariff must file its objection with the Executive Secretary of the Commission within seven (7) days after being served by the filing party with a copy of the proposed compliance tariff. The Commission may take said objection into consideration prior to issuing its order on the proposed compliance tariff.

**c. Service of Copies**

Copies of opposition to the proposed compliance tariff must be transmitted to all parties of record by the party filing the opposition. A Certificate of Service must accompany the filing of the opposition.

**d. Issuance of Order Approving Proposed Compliance Tariff**

Upon recommendation by the Staff that the proposed compliance tariff conforms with the order of the Commission issued in the case or conforms with the Stipulation of all parties, and if there is no opposition to the proposed tariff in accordance with this rule, the Commission shall issue an order approving the proposed compliance tariff. If a filing of opposition is properly made as described herein, a hearing may be conducted regarding the proposed compliance tariff.

**9. Effect of Issuance of Order**

After the order has been entered by the Executive Secretary of the Commission, the approved rates and other charges may be lawfully collected by the public utility until changed by subsequent order of the Commission.



## **Chapter 10    Miscellaneous Application Proceedings**

### **Rule 10**

#### **100 Definition**

A miscellaneous application filing is a proceeding, other than a certificate proceeding, a transfer proceeding, a proceeding seeking to change, modify, alter, or establish rates, a complaint proceeding or a request for a declaratory opinion in which the authority of the Commission to perform some act is requested. All proceedings to change, modify, alter or increase existing rates or for the establishment of initial rates shall be filed under the provisions of RP 9. Proceedings to obtain certificates shall be filed under the provisions of RP 7.

#### **101 Contents of Application**

All applications shall be in writing and shall be in compliance with the requirements of RP 6. The application shall set forth:

1. The full name, mailing address and e-mail address of the applicant, and, if the applicant is a corporation, its status as such;
2. A clear and concise statement of the facts upon which the application is based;
3. All direct testimony to be relied upon at the hearing;
4. Citations to the provisions of law relied upon; and
5. A request for the order, authorization or permission desired.

#### **102 Notice Requirement**

The applicant shall provide notice in accordance with RP 6 herein of its filing upon all interested persons, as defined herein.

#### **103 Disposition**

The Commission shall conduct a hearing where such is necessary to the public interest or for the protection of substantial rights. Otherwise, the Commission will decide the matter based upon a paper record. The Commission may request briefs on the issue presented.

## **Chapter 11 Complaint Proceedings**

### **Rule 11**

#### **100 Informal Complaints**

##### **1. Authorized**

Informal complaints may be made by letter or other writing addressed to the Commission. If, in the discretion of the Commission, such a complaint warrants it, the matter presented will be taken up with the utility involved in an effort to bring about satisfaction of the complaint without a formal hearing.

##### **2. Form**

No specific requirement is made as to the form of an informal complaint, but in substance the letter or other writing should contain the names and addresses of the complainant and the person complained of, a clear and concise statement of the facts involved, and a statement of the relief requested.

##### **3. Remedy Not Exclusive**

The informal complaint has been found to be effective in many cases and is recommended. However, in the event of failure to bring about satisfaction of the complaint because of the inability of the parties to agree as to the facts involved, or from other causes, the proceeding is held to be without prejudice to complainant's right to file and prosecute a formal complaint, whereupon the informal proceedings will be discontinued.

#### **101 Formal Complaints**

##### **1. Who May Complain**

Complaint may be made by the Commission on its own behalf, by the Staff, by any utility, by any municipality, the State of Mississippi, the United States, any federal or state department, subdivision or agency, Chamber of Commerce or trade association, or by any consumer or prospective consumer of any utility service with respect to service, furnishing of service, rates and other charges, any discrimination with respect to any service or rates or regarding any rule or order of the Commission.

A complaint filed by anyone other than the Commission or the Staff must affirmatively show that the complainant has a direct and substantial interest in the subject matter of the complaint that will be determined by the proceeding. A copy of the complaint shall be served on the utility or respondent by the party filing the complaint at the time it is filed in accordance with RP 6.

##### **2. Form of Complaint**

Each formal complaint shall be in writing, verified, and shall bear a heading showing the names of the complainant and respondent; and, in addition, shall state (a) the full name, mailing address and e-mail address of complainant; (b) the full name and mailing address of the respondent; (c) fully, clearly and with reasonable certainty, the act or thing done or omitted, of which complaint is made, with a citation, where

practicable, to the statute, rule or order, of which violation is claimed; (d) the interest of the complainant, and how it will be affected; (e) the relief that is sought; (f) the name and address of any attorney representing the complainant; (g) and such other matters of fact, if any, as may be necessary to fully acquaint the Commission with the details of the alleged violation. Complainant shall comply with all applicable provisions of RP 6.

### **3. Procedure**

Upon the filing of such a complaint, the Commission will immediately examine the same to determine whether it alleges a prima facie case and conforms to these rules. If the Commission is of the opinion that the complaint does not allege a prima facie case or does not conform to these rules, it will notify the complainant or his attorney to that effect within seven (7) days of the filing date, and opportunity may be given to amend the complaint within a specified time. If not so amended within such time or such extension thereof as the Commission may, for good cause grant, the complaint will be dismissed. If the Commission is of the opinion that such complaint, either as originally filed or as amended, alleges a prima facie case under the Act and conforms to these rules and the law, the Commission will serve a notice upon the respondent of and under the hand of its secretary and attested by its seal, accompanied by a copy of the complaint, directed to such utility or person, and requiring that the complaint be answered in writing within twenty (20) days from the date of service of such notice, provided that the Commission may, in particular cases, require the answer to be filed within a shorter time, or grant additional time in which to answer.

### **4. Offer of Satisfaction of Complaint**

If the respondent desires to satisfy the complaint, he may file with the Commission, within the time allowed for answer, a statement of the relief which he is willing to give, with Certificate of Service of a copy thereof on the complainant endorsed thereon. The complainant shall have seven (7) days in which to file with the Commission a statement accepting the satisfaction offered, or rejecting it, with Certificate of Service of a copy thereof on the respondent. If the offer of satisfaction is accepted by the complainant and approved by the Commission, no further proceedings will be taken.

### **5. Answer of Complaint**

If satisfaction be not made as aforesaid, the respondent shall, within seven (7) days from service of complainant's statement declining the offer of satisfaction (or within such additional time as the Commission may, for good cause shown, allow) file an answer to the complaint, with Certificate of Service of a copy thereof on the complainant endorsed thereon. The answer must contain a specific admission or denial of the material allegations of the complaint which may be done by reference to designated paragraphs of the complaint or portions thereof, and also a clear statement of any matter constituting a defense. If the respondent has no information or belief upon the subject of any allegation sufficient to enable him to answer the same, he may so state in his answer and base his denial upon that ground.

**102 Remedies are Cumulative**

The provisions and remedies of this rule governing formal and informal complaints are supplemental to and cumulative of those remedies afforded under the Act, including but not limited to the remedies provided in Miss. Code Ann. §77-3-11(5) and §77-3-21.

**103 Dismissals**

The Commission may dismiss any complaint without a hearing if in its opinion a hearing is not necessary in the public interest or for the protection of substantial rights.

## **Chapter 12 Motion Practice**

### **Rule 12**

#### **100 Allowed**

##### **1. Form**

After a proceeding has been initiated by petition or otherwise, any request for action by the Commission for an order shall be by motion which, unless made during a hearing or at docket review, shall be made in writing filed with the Commission pursuant to RP 6, shall state with particularity the grounds therefore, the legal authority and argument in support thereof and shall set forth the relief or order sought.

##### **2. When Opposition Must Be Filed**

Other parties to the proceedings desiring to oppose any written motion shall file a response thereto within seven (7) days of the date the motion is served pursuant to RP 6. Provided, however, that the Commission, upon good cause shown, may require expedited responses to any motion.

#### **101 Notice of**

Notice of written motion and response thereto shall be provided by a party to all other parties and to the Executive Director by copy of said motion or response to motion pursuant to RP 6 and with Certificate of Service attached.

#### **102 Grant or Denial of Motion**

##### **1. When Hearing Not Required**

To expedite its business, the Commission, in its discretion, may determine motions not seeking a final order in the case and procedural motions without oral argument and hearing. The Commission may require briefs or written statements of reasons in support and in opposition thereto and make its determination accordingly.

##### **2. When Hearing Ordered**

Dispositive motions or motions seeking a final order in the case shall be the subject of a hearing if the Commission so orders, upon reasonable notice to all parties. The Commission may enter an order of dismissal without a hearing, if in its opinion, a hearing is not necessary in the public interest or for the protection of substantial rights.

##### **3. Disposal of by Executive Secretary**

When unopposed and in the discretion of the Commission, the Executive Secretary of the Commission may enter orders on procedural matters reflecting the ruling of the Commission.

##### **4. Submission of Briefs**

The Commission may request the filing of briefs which shall contain a statement of the issues, position of the parties and authorities upon which each of the parties rely.

## **Chapter 13 Prehearing Conferences**

### **Rule 13**

#### **100 When Held**

Prehearing conferences in rate cases are governed by Miss. Code Ann. §77-3-39 and this rule. In all other cases, prehearing conferences are held pursuant to Commission order and are governed by Commission order and this rule.

#### **101 Notice of**

A copy of the order setting a prehearing conference shall be served on all parties or their attorneys, where applicable, pursuant to RP 6.

#### **102 Procedures for Conducting Prehearing Conferences**

Prehearing conferences shall be conducted in an informal manner so as to facilitate and promote agreement of all parties. Prehearing conferences may be recessed and reconvened at the discretion of the chair upon reasonable notice, actual or constructive, to all parties involved.

#### **103 Stipulations**

##### **1. Commission Policy**

In order to encourage agreement, settlements and stipulations between the parties at the prehearing conference and in order to expedite Commission proceedings, it is a policy of the Commission that if any agreement provides, by its terms, that any provisions thereof are nonseverable, such provisions shall only be adopted in their entirety, if at all, by the Commission.

##### **2. Failure to Stipulate**

Parties failing to stipulate to matters agreed upon by the filing utility and the Staff may, in the Commission's discretion, be afforded an opportunity to cross-examine and to submit written briefs, documentation or additional prefiled testimony in opposition to the stipulation or in support of unresolved factual or legal questions.

#### **104 Duties of the Parties**

##### **1. Representative Authority**

It shall be the duty of all parties to have present at the prehearing conference a representative or attorney who is authorized to enter into stipulations and agreements on behalf of such party. Any person appearing at a prehearing conference in a representative capacity must be authorized to act on behalf of that person's principal with respect to matters to be addressed at the conference.

##### **2. Cooperation**

In order that the Commission's business may be facilitated, delay avoided and expenses reduced, it shall be the duty of all parties and all attorneys to cooperate in the administration of the prehearing procedure.

**3. Failure to comply**

If any party fails to attend the prehearing conference after written notice, such failure shall constitute a waiver by said party of all objections to any order or ruling or stipulation arising out of such conference.

**4. Expert Witnesses**

To facilitate stipulations and agreements, each party is encouraged, but not required, to have present or available for consultation during the conference, appropriate experts or consultants, if any, that are employed by such party.

## **Chapter 14 Request for Comments**

### **Rule 14**

#### **100 When Required**

As a prerequisite to Commission consideration of any request concerning rates, certificates or filings made by any party, certificate holder or complainant, the parties to such matter may be required to file with the Commission written briefs or comments on the proposed regulatory action.

#### **101 Contents**

Such briefs or comments shall include:

1. A statement of the issues.
2. A statement of the action proposed.
3. The party's position regarding the proposed action.
4. The apparent position of other parties regarding the proposed action.
5. All relevant facts established or proposed to be established by the party.
6. All relevant precedent, statutes, caselaw, regulations or regulatory policy.

#### **102 Time For**

Unless noticed otherwise in the notice to file written briefs or comments, the party or parties proposing the regulatory action or requesting relief shall file comments on or before twenty (20) days from the date of the notice. Other parties shall file within thirty (30) days of the notice. Any reply shall be filed within forty (40) days of the notice.

#### **103 Failure to Comment**

A party required to comment or file a brief under this rule and who fails to do so shall not be heard to complain of the action taken.



## Chapter 15 Public Proceedings

### Rule 15

#### 100 Notice to Public/Place of Publication

Notice to the public of Commission hearings when required shall be given in accordance with Miss. Code Ann. §77-3-47 or other applicable provisions of the Act. Notice of proposed rule adoption shall also be furnished pursuant to Miss. Code Ann. §25-43-1.101 et seq., 25-43-2.101 et seq; and 25-43-3.101 et seq.

##### 1. Contents of Notice of Hearing

The notice shall specify the docket or identifying number of the proceeding, contain a brief description of the nature of the proceedings, the name and address of the public records officer and shall, in addition, contain:

- a. A statement of the date, time and place of any public hearing proposed; and/or
- b. A statement of the date by which objections, interventions, protests or comments must be filed in order to be considered by the Commission.

##### 2. Contents of Notice of Proposed Rule Adoption

The notice shall include:

- a. A short explanation of the purpose of the proposed rule and the Commission's reasons for proposing the rule;
- b. The specific legal authority authorizing the promulgation of rules;
- c. A reference to all rules repealed, amended or suspended by the proposed rule;
- d. Subject to Miss. Code Ann. §25-43-2.101(5), the text of the proposed rule;
- e. Where, when and how persons may present their views on the proposed rule; and
- f. Where, when and how persons may demand an oral proceeding on the proposed rule if the notice does not already provide for one.

##### 3. When Notice Required

Notice to the public as provided for herein shall be given in the following instances:

- a. Whenever required by statute or Commission regulation.
- b. Prior to the conducting of any public hearing, if required by law or Commission regulation.
- c. Whenever, in the discretion of the Commission, notice is deemed appropriate or necessary.

#### **4. Proof of Notice**

Proof of publication and of notice shall be filed by the Executive Secretary among the papers and documents in the Commission files.

### **101 Public Hearings**

#### **1. Open to the Public**

All hearings conducted by the Commission are open to the public and hearings conducted in the Commission's Courtroom, may be viewed on the Internet through the Commission's website. Provided however, that the Commission may close the hearing in order to protect any trade secrets, confidential information or other matters exempt from public disclosure, and during such closed hearings the Internet broadcast will be stopped.

#### **2. When Held**

The Commission shall hold full or abbreviated public hearings in all matters where:

- a.** Public hearing is required by law or Commission regulation.
- b.** In the discretion of the Commission, it is necessary or appropriate to hold such public hearings.

#### **3. Abbreviated Proceedings**

Abbreviated proceedings may satisfy a requirement of public hearing if the Commission's order is supported by the data, documentation and exhibits on file in the proceedings. Abbreviated proceedings may include, but shall not be limited to, proceedings wherein factual or procedural determinations are made by order of the Commission upon written stipulations between the utility and the Staff, provided that all parties are afforded an opportunity to submit in writing, argument, evidence and testimony in contravention to the proposed stipulated facts or procedure or in support or opposition to regulatory policymaking.

### **102 Investigations**

#### **1. Commission Investigations**

The Commission may, at any time, on its own motion or the motion of the Staff make investigation and order hearings into any act or thing done or omitted to be done by any public utility, which the Commission may believe is in violation of any provision of law or any order or rule of the Commission. It may also through its own experts or employees, or otherwise, obtain and introduce such evidence as it may consider necessary or desirable in any formal proceeding in addition to the evidence presented by other parties. Orders and pleadings initiating investigations shall specify the matters to be investigated, and shall be served upon the person being investigated.

#### **2. Show Cause Orders in Complaint Proceeding**

The Commission, either upon its own motion or upon receipt of written complaint, may at any time after appropriate notice has been given, summon any person within the Commission's jurisdiction to appear in a public hearing and show cause why such person should not be compelled to comply with any applicable statute, rule, regulation,

or order with which the person is allegedly not in compliance.

### **3. Continuance of Service**

In any case in which an investigation has been instituted herein or where formal complaint has been filed and an allegation is made that a utility or other person is threatening to discontinue a customer's service, the Commission may, after notice and opportunity for hearing, issue an order requiring the utility or other person to continue to provide service during the processing of the complaint. The Commission may issue such an order for good cause, on such terms as may be reasonable to preserve the rights of the parties during the processing of the complaint.

## **103 Evidence**

Rules of evidence at hearings shall conform to the requirements of the courts of record in this State, provided that the Commission, in its discretion, may permit such deviations from said requirements as it deems in the public interest.

### **1. Rules of Evidence – Evaluation of Evidence**

The Commission at hearings is not bound by the Mississippi Rules of Evidence. No informality in any proceeding or in the manner of taking testimony invalidates any order made, approved or confirmed by the Commission. The Commission, with or without objection, may exclude evidence that is irrelevant, unduly repetitious, inadmissible on constitutional or statutory grounds, or inadmissible on the basis of any evidentiary privilege provided by statute or recognized in the courts of Mississippi, and may order the presentation of such evidence to stop. All other evidence may be admitted if it is a type generally relied upon by prudent persons in the conduct of their affairs. The Commission's expertise, technical competence and special knowledge may be used in the evaluation of the evidence.

### **2. Documentary Evidence – Introduction of Records in the Executive Secretary's Official File**

Documentary evidence may be received in the form of copies or excerpts. Upon request, parties shall be given an opportunity to compare the copy with the original if available. However, the Commission may permit photostatic, photographic or other copies of documents, or any part or parts thereof, to be introduced in evidence upon a satisfactory showing of their correctness or upon showing that it would be impractical or inconvenient to introduce the originals. When a party offers in evidence any portion of a transcript, exhibit, or other record from any other proceeding before the Commission, the portion offered must be specifically described and, if admitted, will be made an exhibit.

Where relevant and material matter offered in evidence is embraced in a book, paper or document containing other matter not material or relevant, the party shall plainly designate the matter so offered. If such immaterial matter unnecessarily encumbers the record, such evidence will not be received but may be marked for identification, and, if properly authenticated, the relevant and material matter may be read into the record, or if the Commission so directs, a true copy of such matter in proper form shall be

received as an exhibit, and like copies delivered by the party offering the same to opposing parties who shall be given opportunity to examine same and to offer in evidence any other portions thereof if found to be relevant or material.

### **3. Official Notice**

The Commission may take official notice at hearings and in its orders:

- a. The orders, notices, rules, certificates and permits of any regulatory agency, state or federal;
- b. Technical, financial, or scientific facts established and published in authorities whose accuracy cannot be questioned or within the Commission's specialized knowledge;
- c. Matters judicially noticeable pursuant to Mississippi Rules of Evidence 201; and
- d. Data contained in periodic reports of regulated utilities filed with the Commission or federal regulatory agencies.

### **4. Procedure for Taking Official Notice**

When officially noticing on its own motion, the Commission will give the parties appropriate opportunity to respond or refute such matters noticed.

### **5. Objections – Offers of Proof**

Grounds for objection to the admission or exclusion of evidence must be stated briefly at the time the evidence is offered. An offer of proof may be made for the record which consists of a statement of the substance of the excluded evidence. When a party objects to the admission of evidence, the Commission will rule on the objection or the Commission may receive the evidence.

### **6. Prefiled Testimony**

The Commission may order a witness's prefiled testimony previously distributed to all parties to be incorporated in the transcript as if read if timely filed pursuant to an order, statute, notice or rule requiring its filing before hearing. Without objection, the Commission may direct other prefiled testimony to be incorporated in the transcript as if read. A copy of all prefiled testimony with exhibits shall be provided to the court reporter during the public hearing for inclusion in the transcript of the proceeding. A copy of all prefiled testimony with exhibits shall be provided to each of the Commissioners at the hearing.

### **7. Exhibits**

#### **a. Form of Exhibits**

Public exhibits offered at hearing must ordinarily be typed or printed on eight and one half by eleven inch (8 1/2" x 11") white paper, except maps, charts, photographs and non-documentary exhibits may be introduced on the size or kind of paper customarily used for them. Exhibits that are trade secrets, confidential information or otherwise exempt from public review shall be placed in an envelope other than white. When practical, sheets of each exhibit shall be numbered and, if the exhibit

consists of two or more sheets, the first sheet or title page shall contain a brief summary of what the exhibit purports to show and the number of pages in the exhibits. It is desirable that rate comparisons or other similar evidence be condensed into easily readable tables. At the hearing, a copy of each documentary exhibit must be furnished to each party present, to the court reporter, and to each Commissioner except for unusually bulky or voluminous exhibits that have previously been made available for the parties' inspection. Copies must be of good quality.

**b. Timely Filing of Exhibits**

Exhibits offered as part of a party's direct case (except exhibits offered on redirect examination) must be timely filed. Exhibits filed pursuant to any order, statute, notice or rule requiring their filing before hearing are timely filed. Otherwise, exhibits must be distributed or made available to all parties long enough before their introduction into evidence to allow the parties a reasonable opportunity to review them and to prepare to examine their substance, except those exhibits that update exhibits previously timely filed may be filed so long as fair opportunity is afforded other parties to examine the sponsoring witnesses about the updated material.

**c. Objection – Admission**

Exhibits identified at hearing are subject to appropriate and timely objection before the close of proceedings. Exhibits to which no objection is made are automatically admitted into evidence without motion of the sponsoring party.

**8. Late Filed Evidence**

Except as may be expressly permitted and upon good cause shown, the Commission will not receive in evidence or consider as a part of the record any book, paper or other instrument in connection with the proceeding after the close of the testimony.

**104 Burden of Proof**

The burden of proof shall be carried by the parties in like manner as is required in the courts of record in the state.

**105 Stipulations**

By stipulation in writing, or dictated into the record, the parties to any proceeding or investigation by the Commission may agree upon the issues or any portion of the issues involved in the controversy, which stipulation shall be regarded and used in evidence at the hearing. Parties are requested to agree upon the issues whenever practicable.

**106 Order of Procedure**

**1. Opening the Evidentiary Hearing**

The Commission may open the hearing by making a concise statement of its scope and purposes and by taking appearances of each party or the party's authorized representative.

**2. Order of Procedure in Evidentiary Hearings**

a. The party with the burden of proof on the whole proceeding shall be entitled to open

and to close. Parties may be allowed to make opening statements. Following opening statements, if any, the party with the burden of proof shall be allowed to proceed with its direct case. Opposing parties shall be allowed to cross-examination each witness, consistent with any order aligning parties. Each party shall then present its case and witnesses will be subjected to cross-examination. Unless otherwise ordered by the Commission for good cause, the Staff shall be the last party to present a direct case and the last party to cross examine witnesses.

- b. Redirect will be limited to matters raised in the round of examination immediately preceding the redirect. The Commission may allow recross examination.
- c. The party with the burden of proof may rebut evidence presented by opposing parties after all parties have presented their direct cases. Rebuttal may be afforded other parties at the Commission's discretion, provided that the party with the burden of proof shall be entitled to make the closing presentation.
- d. After parties have completed the presentation of evidence, and have been afforded the opportunity to cross-examine the other parties' witnesses, closing statements may be allowed.
- e. The Commission may question any witness testifying in a case.

#### **107 Testimony under Oath**

All testimony presented in formal hearings will be given under oath. Before testifying each witness must swear or affirm that the testimony the witness will give before the Commission is the truth, the whole truth, and nothing but the truth.

#### **108 Parties and Persons with Similar Interests**

If two or more parties or persons have substantially like interests or positions, to expedite the proceeding and avoid duplication, the Commission may limit the number of them who testify, examine witnesses, or make and argue motions and objections.

#### **109 Statements of Position**

Except as provided by Miss. Code Ann. §77-3-39 (3)-(8), addressing prehearing conferences and filings required before the hearing, the Commission may request, by order, that the parties furnish a statement of position no later than three (3) working days before the start of a hearing. Unless otherwise provided by order of the Commission, the statement of position shall contain (i) a concise statement of the party's position in the proceeding; (ii) a concise statement of each question of fact, law or policy the party considers at issue; and (iii) a concise statement of the party's position on each issue identified.

#### **110 Final Orders**

All final orders of the Commission are indexed by name and subject and are available for public inspection on the Commission's website or at the Commission's office in Jackson, Mississippi.

**111 Continuance of Hearing**

The Commission may continue proceedings for further hearing.

**112 Oral Argument**

The Commission may in its discretion, set and hear oral argument on any matter before it on reasonable notice according to the circumstances. Generally, only one attorney will be heard for each of the parties during a proceeding. The time for oral argument will be determined by the Commission in each case.

**113 Briefs – Proposed Orders of the Parties – Statements of Position**

In any proceeding, the Commission may order, and the Staff or any party may move that parties file briefs, memoranda, or proposed orders of the parties or statements of position. Except as provided in RP 14.102 the Commission will determine in each case the time within which any briefs may be filed. Untimely submitted briefs will not be considered except for good cause shown. Requests for extensions of time for the filing of briefs shall only be granted in cases of unusual merit. Such requests shall be submitted to the Chairman of the Commission.

**114 The Hearing Record**

The hearing record in a proceeding consists of all transcripts of hearings, conferences, arguments and other proceedings on the record and of all exhibits admitted as part of the record at the hearing. Answers to discovery and other documents filed with the Executive Secretary and served on the parties, whether or not discussed at hearing, are not part of the hearing record unless introduced as exhibits at hearing.

**115 The Commission’s Record**

The Commission’s record in a proceeding automatically includes all filed pleadings, prefiled testimony, exhibits, orders, notices, briefs, proposed orders and position papers. The Commission may add documents officially noticed to the Commission’s record.

**116 The Court Reporter(s)**

**1. Transcription of Record**

The reporter(s) at all hearings, conferences, arguments and other proceedings on the record records oral proceedings and collects all exhibits identified at hearing. Upon request, the record may be transcribed.

**2. Number of Copies**

When a proceeding has been transcribed, the reporter(s) shall prepare an original and one (1) copy of the transcript for the Commission and two (2) copies for the Staff.

**3. Sealed Transcripts**

At the direction of the Commission or the presiding officer, the reporter(s) shall prepare a separate transcript volume(s) of closed proceedings involving trade secrets, confidential information or other matters exempt from public disclosure. The reporter(s) shall file the separate transcript volume(s) under seal. Sealed transcripts shall be

separately stored in a secure location with limited access and safeguarded from unauthorized disclosure.

**117 Failure to Appear at Hearing – Defaults**

After an applicant's, petitioner's, complainant's or moving party's failure to appear at the time and place set for hearing, the Commission may dismiss the petition, application, complaint or motion. When a respondent that has been properly served fails to answer or appear at hearing, the Commission may order any relief against the respondent authorized by law.

**118 Procedures Following Final Orders**

**1. Rehearing**

Proceedings on rehearings shall be governed by the provisions of Miss. Code Ann. §77-3-65.

**2. Appeals of Final Orders**

Appeals of Commission Final Orders may be taken pursuant to Miss. Code Ann. §77-3-67 and 77-3-72.

**3. Stay of Orders Pending Appeal**

The pendency of proceedings to review shall not of itself stay or suspend the operation of the order of the Commission. However, a party may seek an order staying the operation of the order of the Commission pursuant to Miss. Code Ann. §77-3-69.

**4. Service of Final Orders**

The Executive Secretary must indicate on every order the date upon which the order was served on the party or representative of the party.



## **Chapter 16    Accounts, Records and Reports**

### **Rule 16**

#### **100    Systems of Accounts**

Each utility shall establish and maintain a system of accounts in accordance with the orders of this Commission. From and after August 1, 1988:

1. All certificated providers of local exchange telecommunication services shall maintain their accounts in accordance with the Uniform System of Accounts prescribed by the Federal Communications Commission.
2. All certificated providers of gas and electric service shall maintain their accounts in accordance with the Uniform System of Accounts prescribed by the Federal Energy Regulatory Commission; provided, in the case of any utility that is required to keep a system of accounts prescribed by the Tennessee Valley Authority or the Rural Electrification Administration, such system of accounts shall be deemed sufficient compliance with the system prescribed by the Commission.
3. All certificated providers of water or sewer services shall maintain their accounts in accordance with the requirements of the Uniform System of Accounts prescribed by the National Association of Regulatory Utility Commissioners.

This rule shall not be interpreted so as to prevent the Commission from requiring additional or supplemental accounting in addition to that provided for above where such do not conflict with those prescribed by the applicable federal regulatory agency.

#### **101    Filing of Annual Reports**

##### **1.    Deadline**

Every regulated utility shall file on or before May 1st of each year an annual report on the published form of the Commission or a form approved by the Commission. The annual report form is accessible on the Commission's website or by contacting the Executive Secretary of the Commission. All annual reports are available for public inspection and copying except for information contained therein which is confidential or otherwise exempt from public disclosure pursuant to applicable law.

Utilities making reports to any federal agency may file a copy of such report in lieu of the report herein required if such report contains generally the same information required by the Commission. Such reports shall be filed not later than the date required by the federal agency.

##### **2.    Failing to Timely File**

Failure to timely file the required annual report may result in appropriate sanctions imposed by the Commission.

## Chapter 17 Fuel Adjustment Clauses or Riders

### Rule 17

#### 100 Recovery of Cost

Electric utilities shall be permitted to recover the ultimate cost of fuel burned or consumed in electric generating facilities, together with the cost of purchased energy through the filing of fuel adjustment clauses or riders to its schedules of rates and charges.

#### 101 Allowable Cost

The cost of fuel allowable for inclusion in a fuel adjustment clause or rider shall be the prudent cost of fossil and nuclear fuel consumed in the utility's own plants and the utility's share of fossil and nuclear fuel consumed in jointly owned or leased plants.

##### 1. Non-Nuclear Fuel

###### a. Fossil Fuel Direct Costs

The allowable direct cost of fossil fuel other than nuclear fuel shall include those items which are properly includable in FERC account 151, 501 and 547 including the following:

- i Invoice price of fuel less any cash or other discounts.
- ii Freight, switching, demurrage and other transportation charges, not including, however, any charges for unloading from the shipping medium.
- iii Excise taxes, purchasing agent's Commission, insurance and other expenses directly assignable to cost of fuel.
- iv Operating, maintenance and depreciation expenses and ad valorem taxes on utility-owned transportation equipment used to transport fuel from the point of acquisition to the unloading point.
- v Lease or rental costs of transportation equipment used to transport fuel from the point of acquisition to the unloading point.

###### b. Fuel Handling Costs

In addition thereto the direct costs properly includable in FERC account 151, fuel cost may include direct costs associated with burning the fuel at the generating plant such as fuel handling expenses and the cost sampling and analysis. Fuel handling expenses may include the costs for unloading from the shipping medium, which are not permitted to be included in FERC account 151. Fuel handling costs include those items properly chargeable to FERC accounts 152, 501, and 547 except for the costs associated with hedging activities which are not allowed to be recovered through the fuel clause.

###### c. Emission Costs

The actual costs of SO<sub>2</sub> and NO<sub>x</sub> emission allowances, required by Federal or State environmental regulations and consumed as a result of the generation of electricity by utility owned generation plants are includable for recovery through the fuel adjustment clause.

##### 2. Nuclear Fuel

The allowable cost of nuclear fuel shall include those items properly includable in FERC account 518 including the following items:

- a. The amortization of the net cost of nuclear fuel assemblies used in the production of energy. The net cost of nuclear fuel assemblies subject to amortization shall be the cost of nuclear fuel assemblies plus or less the expected net salvage of uranium, plutonium and other by-products and unburned fuel. The utility shall adopt the necessary procedures to assure that charges to this account are distributed according to the thermal energy produced in such periods.
- b. The cost involved when fuel is leased.
- c. The cost of other fuels, used for ancillary steam facilities, including super heat.
- d. Fuel cost shall be debited or credited as appropriated for significant changes in the amounts estimated as the net salvage value of uranium, plutonium and other by-products and the amount realized upon the final disposition of the materials. Significant declines in the estimated realizable value of such items may be recognized at the time of market price declines. When the declining change occurs while the fuel is recorded in the Nuclear Fuel Assemblies in Reactor Account, the effect shall be amortized over the remaining life of the fuel.
- e. No expense for fossil fuel which has already been included in the cost of fossil fuel shall be included in the cost of nuclear fuel.

## **102 Purchased Energy**

The allowable cost of purchased energy shall include the following costs, if prudently incurred, which are appropriately recorded in FERC account 555 (excluding all capacity or demand related charges):

1. The actual identifiable fossil and nuclear fuel costs associated with energy purchased for reasons other than identified in paragraph (2) below.
2. The net energy cost of energy purchased exclusive of capacity or demand charges (irrespective of the designation assigned to such transaction) when such energy is purchased on economic dispatch basis. Included therein may be such costs as the charges for economy energy purchased and the charges as a result of scheduled outages, all such kinds of energy being purchased by the buyer to substitute for its own higher cost energy.
3. All costs, net of costs associated with interconnection or otherwise recovered from a qualifying facility, incurred by an electric utility for purchases of power and/or energy from a qualifying facility pursuant to a standard rate for purchase or other legally enforceable obligations as provided in the rules of the Commission governing cogeneration and small power production, and less.

4. The Less the cost of fossil and nuclear fuel recovered through inter-system sales including the fuel costs related to economy energy sales and other energy sold on an economic dispatch basis.

### **103 Other Allowable Costs**

1. Independent fuel auditing and consulting performed at the direction of the Commission or the Staff, which have been approved by the Commission and which have not otherwise been provided for in base rates.
2. Costs currently allowable by FERC in wholesale fuel adjustment clauses as described in 18 CFR 35.14
3. Operating and maintenance expenses on leased transportation equipment used to transport fuel from the point of acquisition to the unloading point.
4. Other direct or indirect costs specifically allowed by the Commission.

### **104 Excludable Cost**

This section 104 shall only apply Wwhenever an electric utility purchases fuel for generation from a corporation or company which is owned in whole or in part by the electric utility or its parent company, and that was formed for the purpose of buying fuel for resale to affiliates. If this section applies, the following items of cost, heretofore properly included in fuel adjustment calculations, are ineligible after July 1, 1978, for inclusion in its fuel adjustment clause or rider, even though such items of cost may be included in the invoice price paid for such fuel:

1. Interest costs of financing fuel inventories.
2. Interest in investment and storage facilities.
3. Storage, operating and maintenance expenses (including depreciation; insurance; rentals; repairs and maintenance; and taxes).
4. Fuel handling expenses (loading and unloading) except as described in paragraph B(1) above.
5. Administrative and general: (Salaries; welfare; expenses of officers and employees; franchise tax; office overhead).
6. Miscellaneous expenses (including outside services; insurance on inventory; and other).

### **105 Total Energy Cost**

When application is made by an electric utility proposing to change its schedules of rates and charges and include therein a fuel adjustment clause or rider, the portion of its total energy cost, including costs of fuel and purchased energy, not recovered through its fuel adjustment clause or rider, may be included for recovery in its base rates for electric service.



## **Chapter 18 Purchased Gas Adjustment Provision**

### **Rule 18**

#### **100 Allowable Costs**

The specified costs which a public utility distributing gas shall be allowed to recover in its purchased gas adjustment clause (PGA) for retail billings include:

1. Any increase or decrease in the cost of gas per unit sold (including but not limited to applicable transportation charges and BTU adjustments) over or under the cost of gas recovered per unit sold under the rate schedules to which such PGA shall apply.
2. Adjustments for municipal franchise tax (gross receipts tax) and other tax adjustments resulting from or arising in connection with any increase or decrease in the utility's cost of gas.
3. Such other costs as may be approved by the Commission. Purchased gas adjustment clauses heretofore approved by the Commission may be continued in full force and effect subject to the provisions of the Act.

## **Chapter 19 Fuel Procurement and Use**

### **Rule 19**

#### **100 Standards for Procurement and Use of Fuel**

##### **101**

In procuring and using fuel in the generation of electricity, the utility shall procure such fuel at the lowest and best price available after giving effect to the reliability and ability of the supplier to furnish fuel in adequate quantities and fuel of a quality adequate to meet boiler specifications and environmental requirements over the life of the plant and the adequacy of transportation facilities needed to assure delivery of fuel to the plant site on schedule needed to meet the fuel requirements of efficient and reliable operation of generating plants.

#### **102 Assessment by Public Utilities Staff**

The Staff shall annually review the processes and procedures implemented by electric utilities for the procurement of fuel and purchased energy in order to make an assessment of the effectiveness of such processes and procedures in achieving the standards described in Section 100 above. The Staff shall perform such steps as it deems necessary in the circumstances to make the determination.

## **Chapter 20 Advertising Expenses**

### **Rule 20**

#### **100 General**

For the purpose of this rule "advertising" means the commercial use, by a public utility, of any media, including newspaper, printed matter, radio, television, telephone, telecopier, etc., in order to transmit a message to a substantial number of members of the public or of such utility's customers.

#### **101 Political Advertising**

No public utility, excepting utilities excluded from rate regulation pursuant to Miss. Code Ann. §77-3-5, shall be permitted to recover from its ratepayers any direct or indirect expenditure made by such utility for political advertising as defined herein. For the purposes of this paragraph, "political advertising" means any advertising for the purpose of influencing public opinion with respect to legislative, administrative or electoral matters, or with respect to any controversial issue of public importance.

#### **102 Promotional Advertising**

Except to the extent authorized by these rules or other orders of this Commission, no utility, excepting utilities excluded from rate regulation pursuant to Miss. Code Ann. §77-3-5, shall be permitted to recover from its ratepayers any direct or indirect expense for promotional or institutional advertising. For the purpose of this rule "promotional advertising" means any advertising for the purpose of encouraging any person to select or use the service or additional service of any utility or the selection or installation of any appliance or equipment designed to use such utility's service; and "institutional advertising" means any advertising for the purpose of promoting the general image of a public utility in the community.

#### **103 Associated Costs**

The reasonable cost of the following types of promotional and institutional advertising may be recovered as part of the cost of service:

1. Advertising to acquaint the public with new services and advertising designed to assist customers in making efficient and economical use of existing services.
2. Advertising intended to promote conservation of energy.
3. Advertising required by law or regulation.
4. Advertising regarding service interruptions, safety measures or emergency conditions.
5. Advertising concerning employment opportunities with such utility.
6. Any advertising which has been specifically reviewed and approved by the Commission prior to its release.



The utility shall have the burden of establishing the reasonableness of the amount sought to be allowed for advertising expenses and the prudence of the advertisement programs.

## **Chapter 21     Rate Base, Operating Expenses and Rate of Return**

### **Rule 21**

#### **100    General**

In regulating the rates of any public utility subject to the provisions of this rule, the Commission shall, on hearing after reasonable notice, ascertain and fix the rate base of the property of the public utility in such a manner as to be fair both to the public utility and to the consumer, when the same is relevant or material to the exercise of the jurisdiction of the Commission. The Commission shall make readjustments from time to time, and ascertain the cost of all new construction, extensions and additions to the property of every public utility.

#### **101    Rate Base Considerations**

In arriving at such a rate base, the Commission shall give due consideration to:

1. The reasonable original costs of the property used and useful, or to be used and useful within a reasonable time after the test period;
2. The portion of the cost which has been consumed by previous use recovered by depreciation expense;
3. The allowance for funds used during construction, not to exceed on borrowed funds the true net interest cost of such funds, computed according to the actuarial method, and, on the equity component thereof, a rate of return granted on common equity in the last rate proceeding of the subject utility before the Commission, or if such rate has not been established within the preceding three (3) years, then the average rate of return actually earned on equity during the preceding three (3) years. In connection with such calculations, compliance with the rules of any federal agency having jurisdiction over the subject utility may be deemed sufficient compliance with this rule;
4. Any other items proposed by the utility in a rate case; and
5. Other elements which are deemed by the Commission to be material in determining the rate base for ratemaking purposes.

#### **102    Test Period**

The test period for measuring a public utility's rate base may be the twelve (12) month period beginning with the proposed effective date of the new rates set forth in the Notice of Intent.

#### **103    Inclusions and Exclusions**

##### **1.    Donated Property**

The rate base shall not include property donated to such utility without any consideration nor shall operating expenses include depreciation of such donated property.

## **2. Operating Expenses**

The allowable operating expenses of a utility for ratemaking purposes shall include all necessary, prudent and reasonable expenses incurred or to be incurred in the rendition of the utility's service.

## **3. Specific Expense Items**

The following expenditures are not considered allowable operating expenses:

- a.** Any interest such utility paid, or credited, to its consumers in connection with refunds in a rate proceeding in which its rates were finally determined to be excessive.
- b.** The cost of legislative-advocacy expenses.
- c.** Expenditures for business gifts and entertainment that the Commission determines not to be in the public interest.
- d.** Expenditures of any kind which the Commission determines not to have been prudently incurred or not incurred in the interest of the public.

## **104 Determination of a Fair Rate of Return**

The fair rate of return for a public utility may be arrived at by considering a number of factors, and it cannot be determined by any specific formula, except as provided for in Miss. Code Ann. §77-3-2. However, the basic factors to be considered in arriving at the overall required rate of return are (1) the cost of debt capital, (2) the cost of preferred stock capital and (3) the cost of equity capital. The capital costs of a public utility shall be determined based on evidence of the appropriate costs for the utility's debt capital, preferred stock capital and equity capital. The overall cost of capital may be determined as weighted average of the appropriate costs of these various types of capital.

## **Chapter 22 Charitable or Civic Contributions**

### **Rule 22**

#### **100 General**

Reasonable charitable or civic contributions shall be allowed as cost of service; however, the Commission shall not allow as cost of service for rate-making purposes any expenditures which it determines not to be reasonable, prudent or in the public interest. Due to the varied sizes and operations of the utilities regulated by the Commission, contributions will be studied individually to determine allowance as cost of service.

## **Chapter 23     Discontinuance of Local Exchange Telecommunications Services Provided by Competitive Local Exchange Carriers**

### **Rule 23**

#### **100 Definitions**

##### **1. Bankruptcy Petition**

The document that initiates a bankruptcy case under Title 11 of the United States Code (11 U.S.C. § 101 et seq.) and refers to either Chapter 7 for liquidations or Chapter 11 for reorganization of the debtor. The term includes both voluntary and involuntary bankruptcy.

##### **2. Competitive Local Exchange Carrier or "CLEC"**

A telecommunications services provider offering and/or providing local telecommunications services.

##### **3. Discontinuance**

A permanent cessation of telephone operations by a CLEC to its customers or the termination of individual local exchange telecommunications service offerings to its customers.

##### **4. Incumbent Local Exchange Carrier or "ILEC"**

A telecommunications service provider that meets the definition set forth in 47 U.S.C. §252(h).

##### **5. Resale**

Occurs when a CLEC purchases telecommunications services on a wholesale basis from the ILEC and resells those services to its customers.

##### **6. Unbundled Network Element or "UNE"**

Includes the various physical and functional elements of an ILEC's network offered to CLECs on an unbundled basis as a requirement of the Telecommunications Act of 1996 (47 U.S.C. §251(c) (3)).

#### **101 Requirements for Discontinuance**

##### **1. Complete Discontinuance**

A CLEC intending to cease operations and to discontinue the provision of all local exchange telecommunications services in Mississippi shall file a formal petition for authority to do so with the Commission no less than sixty (60) calendar days prior to the date of discontinuance of local exchange telecommunications services. The petition shall provide:

**a.** The number of affected customers and types of service offerings provided;

**b.** A description of customer notification efforts by the CLEC, copies of the written notice sent or proposed to be sent to the CLEC's customers and plans, if any for

follow-up customer notification. Notice shall be consistent with the requirements described herein.

- c. A full explanation of the reasons for the proposed discontinuance of operations, including any plan to transfer the CLEC's customers to other carriers; and,
- d. A request for cancellation of the petitioning CLEC's certificate or certificates to provide local exchange telecommunications service and, if applicable, interexchange telecommunications services upon the approval for discontinuance of the CLEC's local exchange operations. If cancellation of the certificate or certificates is not requested, a concise statement of why the Commission should not cancel the certificate or certificates should be given; and
  - i The date service will be discontinued;
  - ii A sample of the notice to be sent or that was sent to the customers;
  - iii Date by which customer must select a provider, and;
  - iv Summary of how and what format the customer service records (CSRs) are being kept and how CSRs will be made available to other carriers.

## **2. Partial Discontinuance**

A CLEC intending to partially discontinue local exchange telecommunications services on a geographic basis, by functional type (e.g. resale), or by class (e.g. residential), shall file a formal petition no less than sixty (60) calendar days prior to discontinuance of service for authority to do so with the Commission. The petition shall provide:

- a. The number of affected customers and types of service offerings provided;
- b. A full explanation of the reasons for partial discontinuance of service, including any plans to transfer the CLEC's affected customers to other services or carriers; and,
- c. The proposed tariff revisions with a proposed effective date; and
- d. A copy of the notice or proposed effective date; and
- e. A copy of the notice or proposed notice to be sent to the CLECs customers and plans, if any, for follow-up customer notification. Notice shall be consistent with the requirements described herein.

## **3. Prerequisites to Discontinuance**

Except in instances described herein, no discontinuance of local exchange telecommunications service shall be implemented until the Commission has ruled on the petition and notice has been provided to end user customers.

## **4. Waiver of Third Party Verification and Slamming Requirements**

Concurrent with the approval of the petition by the Commission, the Third Party Verification and Slamming Requirements will automatically be waived for new local service providers acquiring customers from the exiting CLEC.

## **5. Additional Requirements**

In its consideration of the petition, the Commission shall determine if sufficient notice has been provided to customers and shall prescribe any additional notice or other requirements, as it deems necessary in the public interest.

### **102 Customer Notification**

Customers shall be provided written notice no less than sixty (60) calendar days prior to the proposed discontinuance of service and the notice shall include the following requirements:

1. The date the service will be discontinued;
2. The reason for discontinuance;
3. Clear instruction how to choose another provider;
4. A toll-free number for the exiting provider that customers may call with inquiries prior to the discontinuance of local exchange service;
5. Clearly stated deadlines for customer action including a statement that the customer will lose service if the customer does not select another provider;
6. Identification of each telephone number and its associated circuit identification, if a circuit identification exists, with a statement that informs the customer to provide this information to the local service provider the customer chooses; and
7. A statement that any deposit held by the company shall be applied to the customer's final bill and a refund will be issued within forty-five (45) calendar days of issuance of the final bill if the deposit amount exceeds the final bill amount.

### **103 Bankruptcy Requirements**

#### **1. Required Documentation**

A CLEC that is the subject of a bankruptcy petition shall provide to the Commission a complete copy of the bankruptcy petition and any plan filed under Chapter 7 or 11 of the Bankruptcy Code. Simultaneous with a bankruptcy petition being filed by or against a CLEC or its corporate parent, the CLEC shall provide written notice and a copy of such bankruptcy petition to the Commission. The written notice shall include the following information and be updated as necessary

- a. Whether the CLEC currently provides service offerings to customers in Mississippi and the number of its customers and types of services provided;
- b. The name, address, and telephone number of any trustee in bankruptcy;
- c. The name, address and telephone number of the attorney representing the CLEC in its bankruptcy petition; and

- d. The name, address and telephone number of any company proposing to acquire the assets of the CLEC.

## **2. Notice Provisions**

In those cases where the CLEC has filed for bankruptcy protection and the bankruptcy judge has issued its ruling on surety and terms of disconnection, the notice by the ILEC to the CLEC as described herein may be changed to be consistent with the order of the court.

## **3. Limited Effect**

Nothing contained in this Rule is intended to limit the protections afforded creditors by any provision of the Bankruptcy Code, including but not limited to 11 U.S.C. §§ 365 and 366.

## **104 Administrative Duties of CLECs**

The CLEC shall send a letter to the Number Portability Administration Center (NPAC) authorizing NPAC to provide concurrence for use on telephone numbers ported after the CLEC exits.

The CLEC shall apply any deposit held to the customer's final bill and a refund will be issued within forty-five (45) calendar days of issuance of the final bill if the deposit amount exceeds the final bill amount.

All CLECs shall provide a copy of the filed petition to all 911 entities affected by the discontinuance no later than five (5) calendar days after filing.

The CLEC shall request removal of all Local Service Freezes on existing or affected accounts to allow migration processing concurrent with the sixty (60) day notice.

The CLEC shall notify the North American Numbering Plan Administrator ("NANPA") and/or the Number Pooling Administrator and provide the requisite documents for the relinquishment of NXX codes and/or thousand blocks to the NANPA, the Pooling Administrator, and the Executive Secretary of the Mississippi Public Service Commission. In addition, the code holder or block holder shall abide by industry guidelines (Central Office Code Assignment Guidelines and/or the Thousands-Block Number (NXX-X) Pooling Administrator Guidelines).

The CLEC shall retain an adequate number of personnel able to process all local service requests received prior to the final discontinuance date.

## **105 Disconnection of CLEC by ILEC**

### **1. Good Faith Action Required**

All ILECs and CLECs must make a good faith effort to work together in determining what portion, if any, of its bill for resale or unbundled network elements provided by the ILEC to the CLEC is disputed and which portion is undisputed. The ILEC shall work with the CLEC to resolve the billing dispute and arrange for payment of the



outstanding charges, pursuant to the Interconnection Agreement entered into between the ILEC and the CLEC.

## **2. Notice of Intent to Terminate or Deny Service**

All ILECs must send to the CLEC a notice of intent to terminate or deny services to the CLEC for non-payment of undisputed charges. A copy of the notice shall be provided to the Executive Secretary of the Commission. The failure of the Commission to receive timely notice shall constitute rebuttable presumption of unlawful termination. All ILECs must state the following in the content of the notice:

- a.** The name and address and account number of the CLEC;
- b.** A plain statement of the grounds upon which the right to disconnect or denial is founded, including the amount owed; and,
- c.** The exact date or range of dates service will be discontinued.

## **3. Restriction on Disconnection or Denial of Service**

ILECs must not disconnect or deny service to the CLEC prior to the date (or range of dates) given on the notice of intent to terminate. In no case shall disconnection be effected less than thirty (30) calendar days from the date the ILEC mails the notice to terminate service to the CLEC. If the last day of the thirty (30) day notice period falls on a Saturday, Sunday or legal holiday, the notice period will expire at the close of the ILEC's next business day. In order to ensure that the interests of customers are adequately protected during the termination of service to a CLEC for non-payment of charges, the Executive Secretary of the Commission shall have the authority, in order to further the public interest, to issue directives to ILECs and CLECs to effectuate the intent of this Rule.

## **4. Duties of CLEC**

Within five (5) business days after the notice from the ILEC is received by the CLEC, the CLEC shall fax and file by certified mail to the Executive Secretary of the Commission, a notarized affidavit (Exhibit A) verifying one (1) of the following:

- a.** The Company can and will pay the undisputed amount owed to the underlying carrier at least five calendar days prior to the disconnect date;
- b.** The Company will mail notice of disconnection, as described herein, to its customers at least twenty (20) calendar days prior to disconnection.

## **5. Requirement of Spreadsheet**

The CLEC shall also file a spreadsheet containing a list of customer names, addresses, and telephone numbers under seal, within (five) 5 business days after the notice to disconnect is received by the CLEC. The list shall specifically identify those end user customers who are public utilities or agencies, governmental agencies, inmate facilities or hospitals. If the CLEC is facilities based, the required list shall also include:

- a.** Circuit ids,

- b. Cable pair identification,
- c. A statement of authorization allowing the new local service provider to complete the number portability migration process required for transfer of local exchange service to another local service provider; and
- d. A statement that the CLEC will set the appropriate triggers in the CLEC's switch to allow for the completion of calls.

The required information shall be used to facilitate the transfer of the end user customers to their new local service provider.

**6. Administrative Cancellation of Certificates**

A CLEC that is found to have ceased providing local exchange telecommunications services to its customers in Mississippi without providing notice to the Commission and to its customers under this Rule shall be in violation of this Rule, and its certificate may be administratively cancelled.

**7. Penalties**

Any willful or intentional violation of this Rule may subject the telecommunications service provider to a penalty not to exceed \$5,000.00 for each day for each violation. Violations may also constitute grounds for forfeiture of a CLECs Certificate of Operations to provide service in Mississippi.

**AFFIDAVIT**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, before me, the undersigned, a Notary Public in and for the State and County aforesaid, personally appeared \_\_\_\_\_, appearing herein in his capacity as \_\_\_\_\_ (Title) of \_\_\_\_\_ (Company) (the "Company") duly authorized to act on behalf of said Company, who being by me first duly sworn deposed and said that:

The foregoing instrument/Notice of Disconnect was received by said Company with an undisputed amount listed as (Dollar Amount) due to the underlying carrier and a date of disconnect listed as (Date or Dates Specified).

He/She is appearing to swear or affirm that he/she will ensure, on behalf of said Company, that:

The Company can and will pay the undisputed amount owed to the underlying carrier at least five (5) calendar days prior to the disconnect date;

OR

The Company will mail notice of disconnection to its customers at least twenty (20) calendar days prior to the disconnection date as listed in the attached Notice from the underlying carrier (ATTACHMENT OF NOTICE REQUIRED.)

AND if I fail to do what I say that I will do (send notice or pay) then I forfeit the bond for failing to do as I have sworn I would do.

AND if present before the Commission and duly sworn, his/her testimony would be the same.

\_\_\_\_\_  
Person duly authorized to act for the Company

SWORN TO AND SUBSCRIBED BEFORE ME THIS \_\_\_\_\_ DAY OF  
\_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

**Exhibit A**

## **Chapter 24 Declaratory Opinions**

### **Rule 24**

#### **100 Scope of Rules**

These sections set forth the Commission's rules governing the form and content of requests for declaratory opinions, and the procedures of the Commission regarding the requests, as required by Miss. Code Ann. §25-43-2.103.

#### **101 Persons Who May Request Declaratory Opinions**

Any person having a substantial interest in the subject matter may make a written request of the Commission for a declaratory opinion by complying with these rules.

"Substantial interest in the subject matter" includes but is not limited to, any person which will be substantially and directly affected in the subject matter, its outcome or otherwise possessing a substantial interest.

#### **102 Scope of Declaratory Opinions**

The Commission will issue declaratory opinions regarding the applicability to specified facts of: (a) a statute administered or enforceable by the Commission, (b) a rule promulgated by the Commission, or (c) an order issued by the Commission.

The Commission will not issue a declaratory opinion regarding a statute, rule or order which is beyond its jurisdiction.

The Executive Director of the Staff, upon the request of the Commission, may have the Staff prepare declaratory opinions on behalf of and for the Commission.

#### **103 Circumstances in which Declaratory Opinions May Not Be Issued**

The Commission may, for good cause, refuse to issue a declaratory opinion. Without limiting the generality of the foregoing, the circumstances in which declaratory opinions may not be issued include, but are not necessarily limited to:

1. Lack of jurisdiction;
2. Lack of sufficient clarity of the issues presented;
3. Pending or anticipated litigation, prosecution, administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;
4. The statute, rule, or order on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;
5. The facts presented in the request are not sufficient to answer the question presented;

6. The request fails to contain information required by these rules or the requestor failed to follow the procedures set forth in these rules;
7. The request seeks to resolve issues which have become moot, or are abstract or hypothetical such that the requestor is not substantially affected by the rule, statute or order on which a declaratory opinion is sought;
8. No controversy exists concerning the issue as the requestor is not faced with existing facts or those certain to arise which raise a question concerning the application of the statute, rule, or order;
9. The question presented by the request concerns the legal validity of a statute, rule or order;
10. The requestor has not suffered an injury or threatened injury fairly traceable to the application of the statute, rule or order;
11. The request is not based upon facts calculated to aid in the planning of future conduct, but is instead based on past conduct in an effort to establish the effect of that conduct;
12. No clear answer is determinable;
13. The question presented by the request involves the application of a criminal statute or sets of facts which may constitute a crime;
14. The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;
15. The question is currently the subject of an Attorney General's opinion request or has been answered by an Attorney General's opinion;
16. The request is speculative or purely hypothetical and does not involve an actual situation;
17. The request is frivolous;
18. Where such opinion may adversely affect the interests of the State, the Commission, or any of their officers or employees in any litigation which is pending or may reasonably be expected to arise;
19. Where a similar request is pending before the Commission or any other agency or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law;

20. The request raises issues involving certification or rate matters as there exists a statutory or regulatory process by which certification and rate matters are determined; and

21. For other good cause stated by the Commission.

**104 Questions of Law**

Where a request for a declaratory opinion involves a question of law, the Commission may refer the matter to the State Attorney General.

**105 Notification of Decision to Decline to Issue a Declaratory Opinion**

In the event the Commission declines to issue a declaratory opinion, the requester shall be notified in writing that the request for a declaratory opinion was denied and the reasons therefore shall be specified.

**106 Form and Content of Request**

**1. Number Required**

The original and four copies of the request shall be submitted to the Commission.

**2. Specifications**

The signed request must be printed or typewritten or be in legible handwriting submitted on 8½ by 11 inch paper. The request may be in the form of a letter or may be in the form of a pleading. The request and envelope must clearly designate that a request for a declaratory opinion is sought. Oral, electronic and telephone requests are unacceptable.

**107 Methods of Delivery**

**1. To Commission**

A written request of the Commission shall be mailed to the Executive Secretary, Mississippi Public Service Commission, P.O. Box 1174, Jackson, Mississippi 39215-1174 or hand delivered to Executive Secretary, Mississippi Public Service Commission, 501 N. West Street, Suite 201A, Jackson, Mississippi 39201.

**2. To Public Utilities Staff**

A copy of such request shall be mailed to the Executive Director of the Public Utilities Staff, P.O. Box 1174, Jackson, Mississippi 39215-1174 or hand delivered to the Executive Director of the Public Utilities Staff, 501 N. West Street, Suite 301-B, Jackson, Mississippi 39201.

**3. Required Information**

The request shall contain:

a. The name, mailing address, and telephone number of the requestor;

b. A concise statement of the specific issue or question presented;

- c. A clear statement of all specific facts relevant to a resolution of the question presented;
- d. A designation of the specific statute, rule, order or ordinance in question and statement of jurisdiction;
- e. A statement of the nature of requestor's interest, including reasons for the submission;
- f. A statement sufficient to show a substantial interest in the subject matter of the requested question or issue;
- g. A statement of position or contention on the requested issue or opinion by the requestor;
- h. The identity of all other known persons involved in or impacted ( or potentially impacted) by the factual situation causing the request including their relationship to the facts, their name(s), mailing address(es) and telephone number(s);
- i. A memorandum of authorities, containing a full discussion of the reasons, including any legal authorities in support of such position or contention;
- j. All supporting documentation and any other relevant information;
- k. A statement that there are no related proceedings, proceedings involving the subject matter or similar proceedings pending or anticipated before any agency, administrative or judicial tribunal;
- l. A statement that all parties involved in a contested case were noticed by the requestor pursuant to this rule if the subject matter involved an Order by the Commission in a contested case;
- m. The signature of the requestor signed under oath, or where represented by an attorney, the signature of the attorney; and
- n. If the request seeks an opinion which involves a question of law, a statement of the issue shall be clearly described.

**108 Single Transaction**

A request must be limited to a single transaction or occurrence.

**109 Time for Commission's Response and Notification**

**1. Response To**

Within forty-five (45) days after the receipt of a written request for a declaratory opinion which complies with the requirements of these rules, the Commission shall, in writing:



- a. Issue an opinion declaring the applicability of the specified statute, rule, or order to the specified circumstances;
- b. Decline to issue a declaratory opinion, stating the reasons for its action; or
- c. Agree to issue a declaratory opinion by a specified time but no later than ninety (90) days after receipt of the written request.

## **2. Method of Delivery of Response**

The Commission shall promptly mail a copy of all opinions issued in response to a written request for a declaratory opinion to the requesting person.

## **3. When Period Begins to Run**

The forty-five (45) day period shall begin running on the first State of Mississippi business day that the request is received in the office of the Executive Secretary of the Commission.

## **4. Opinion Not Final for Sixty Days**

A declaratory opinion shall not become final until the expiration of sixty (60) days after the issuance of the opinion. Prior to the expiration of sixty (60) days, the Commission may, in its discretion, withdraw or amend the declaratory opinion for any reason which is not arbitrary or capricious. Reasons for withdrawing or amending an opinion include, but are not limited to, a determination that the request failed to meet the requirements of these rules or that the opinion issued contains a legal or factual error.

# **110 Procedure Subsequent to Receipt of Request for Declaratory Opinion**

## **1. Notification to Other Persons**

In addition to the notice requirement placed upon the requestor herein, the Commission may give notice to any person that a declaratory opinion has been requested and may receive and consider data, facts, arguments and opinions from persons other than the requestor, including comments on whether a declaratory opinion should be issued.

## **2. Required Service of Notification by Requestor**

The requestor, or his attorney, shall append to the request for a declaratory opinion a listing of all persons, with addresses, known to the requestor who may have an interest in the declaratory opinion sought to be issued, and shall mail a copy of the request to all such persons. If the requestor seeks a declaratory opinion as to the applicability of an order of the Commission entered in a contested case, the requestor shall serve a copy of the request upon all other parties in that case. If the requestor is a customer of a person or company regulated by the Commission which would be affected by the request, the requestor shall serve the person or company of which he is a customer. The requestor shall file a Certificate verifying that notice was properly provided pursuant to this rule and provide the date of such notice. The requestor or his attorney shall certify that a copy of the request was mailed to all such persons together with this statement: "Should you wish to participate in the proceedings of this request, or receive notice of such proceedings or the declaratory opinion issued as a result of this request, you should

contact the Executive Secretary of the Commission within twenty days of the date of this request.”

### **3. Time for Response**

Any person or entity so served has ten (10) calendar days in which to file briefs in support of, or in opposition to the request for a declaratory opinion.

### **111 Additional Information**

When deemed necessary, the Commission may request that the requestor state the terms of the proposed opinion; may request oral argument and written briefs be submitted by all interested parties and any other information deemed necessary.

### **112 Hearing at the Discretion of the Commission**

#### **1. Provision for Hearing**

If the Commission in its sole discretion deems a hearing necessary or helpful in determining any issue concerning a request for declaratory opinion such hearing may be scheduled. Notice of the hearing shall be given to all interested parties unless waived. Notice mailed by first class mail seven (7) calendar days prior to the hearing shall be deemed appropriate.

#### **2. Proceedings at the Hearing**

The procedure for conducting a hearing, including but not limited to the manner of presentation, the time for presentation, and whether and how evidence may be taken, shall be within the discretion of the Commission.

#### **3. Persons Appearing at the Hearing**

The Commission may allow the requestor and any other persons or entities to participate in any hearing.

### **113 Public Availability of Requests and Declaratory Opinions**

Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying at the expense of the viewer during normal business hours. All declaratory opinions and requests shall be indexed by name and subject. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

The Commission will provide an index by name and subject of all requests for declaratory opinions and of all declaratory opinions issued by the Commission unless the information contained within such opinion is confidential or exempt from public disclosure pursuant to applicable law.

### **114 Informal Request for Interpretation**

Any request presented in any manner other than in accordance with the provisions of this rule shall not be deemed to be a request for a declaratory opinion but may be deemed an informal request for interpretation and may be acted on as such.

## **Chapter 25    Return on Purchased Power Capacity**

### **Rule 25**

#### **100 Procedure**

##### **1. Report by Utility**

Miss. Code Ann. §77-3-91 through 77-3-95, allow a utility to include as an expense item in its revenue requirements for the purpose of calculating its rates for retail service an amount representing a return on the cost of capacity purchased from a non-utility generator or some nonassociated source for a period in excess of thirty (30) days. Before the utility may receive this return on the cost of capacity purchased, the utility shall report the purchase to the Commission and the Staff. The report shall provide the information outlined in Appendix E and shall be filed with the Commission pursuant to RP 6. The utility shall provide copies of the report to those third persons who have requested copies of the same and who are on a list maintained for that purpose by the Executive Secretary of the Commission as of the date the utility filed the report. The utility shall certify to the Commission its compliance with this rule.

##### **2. Confidential Information**

Should the utility assert that any portion of the report, or any document in support thereof, contains trade secrets or confidential commercial or financial information, the utility shall separately file such information with the Commission and Staff as provided by the rules herein. Copies of the trade secrets and/or confidential information shall not be provided to any third person or party requesting the same, except pursuant to applicable rule herein and according to applicable law.

##### **3. Response by Third Persons**

Any third person desiring to comment on the utility's filing to earn a return shall file such comments within twenty (20) days after the utility files its report. Any third person desiring a hearing shall file a written petition pursuant to Miss. Code Ann. §77-3-95(2) within twenty (20) days after the utility files its report. All comments and petitions for hearing shall include all supporting documentation, and all petitions shall also include proposed testimony and exhibits. Any person filing comments or a written petition shall specifically identify the issue or issues to which the comments and petition are addressed. A petition for a hearing shall also state specifically why a hearing is needed and why the issues cannot be adequately addressed by the Commission on written submittals. Copies of the comments, written petitions, and all supporting documentation shall be filed and served on the Staff, the utility, and all other parties of record in the proceeding in accordance with RP 6. For the purposes of this rule, a "party of record" means a third person which files comments or a petition pursuant to this paragraph.

##### **4. Response by Utility**

Following the filing of the comments and/or petitions of third persons, the utility may file its response to the specific issues raised, which shall include comments and

supporting documentation, and may include proposed testimony and exhibits. The utility shall file its response with the Commission and serve copies on the Staff and all other parties of record.

#### **5. Review by Staff**

Upon the filing of the utility's report, comments, petitions, the utility's response, and supporting documentation, the Staff shall review the information submitted by the utility and all third persons and shall investigate the purchase to determine: (a) Whether the purchase is in the best interest of the utility and its retail customers; (b) Whether the portion of the purchase designated as capacity or energy requirements, or both, is appropriate; and (c) Whether the return filed by the utility in the report of purchase is just and reasonable to the utility and to its retail customers.

The Staff shall report the results of its investigation to the Commission in writing. A copy of the Staff report shall be provided to the utility and all parties of record.

#### **6. Action by Commission**

Within thirty (30) days after the utility files its report pursuant to paragraph (1) of this section, if the Commission determines that further proceedings are necessary, or that additional time is needed for the Staff to make its report, it shall suspend the filing for a period not to exceed one hundred and twenty (120) days from the date the utility files its report, and conduct further proceedings as it deems necessary pursuant to Miss. Code Ann. §77-3-95(3). Otherwise the return requested shall become effective on the date requested in the report and the Commission shall enter a final order authorizing the utility to include the requested return in the calculation of its retail rates.

#### **101 Cost of Capacity**

The cost of the purchase of capacity for the purpose of this Rule and Miss. Code Ann. §77-3-93 and §77-3-95 shall be that charge or expense associated with the purchase of capacity, as that term is defined in Miss. Code Ann. §77-3-91(f) & (g). When the cost of capacity is not separately stated, then the cost of capacity shall be that portion of the charge which represents the availability of the generating unit or units or which represents a firm commitment to supply energy for a period in excess of thirty (30) days.

#### **102 Special Provision**

For those utilities using Commission approved formulary rate plans, the rate of return, which, pursuant to Miss. Code Ann. §77-3-91(c), may be adjusted to a before-tax basis, for the specific filing period(s) for which such return is requested shall be deemed just and reasonable.

## **Chapter 26 Rule-Making**

### **Rule 26**

#### **100 Commission or Staff Initiated Rule-Making**

The Commission may initiate rule-making proceedings on its own motion or the Staff may initiate rule-making proceedings by motion to the Commission.

#### **101 Petitions for Rule-Making**

Any interested person can petition the Commission for issuance, amendment or repeal of a rule.

#### **102 Applicable Law**

In adopting, amending or rescinding any rule, the Commission shall comply with Miss. Code Ann. §25-43-1.101 et seq; §25-43-2.101 et seq; and §25-43-3.101 et seq.

#### **103 Open to the Public**

All hearings which are conducted, as may be required by applicable law, are open to the public.

#### **104 Designation of Spokesperson**

To prevent undue repetition during the hearing, parties whose interests are aligned shall designate no more than two (2) spokespersons to present oral argument or views to the Commission. This designation shall be made five (5) days prior to the hearing date, if a hearing is required, by filing said designation with the Executive Secretary pursuant to RP 6.

#### **105 Rule-Making Docket**

The Commission and/or the Staff shall maintain a current public rule-making docket which briefly describes each pending rule-making proceeding and the subject matter thereof involving the Commission or the Staff. This docket shall also provide: (a) a citation to all published notices relating to the proceeding; (b) the location where written submissions or written requests for an opportunity to make oral presentations on the proposed rule may be inspected; (c) description of the time period for making written submissions; (d) where applicable, the location and date for oral presentations to the Commission; (e) location of the economic impact statement and written requests for the issuance of and other information concerning an economic impact statement of the proposed rule may be inspected; (f) description of the current status of the proposed rule; (g) designation of the date of the rule's adoption; and (h) designation of the effective date of the rule.

#### **106 Rule-Making Record**

The Executive Secretary of the Commission shall maintain an official rule-making record for each proposed rule or adopted rule which contains the information required by Miss. Code Ann. §25-43-3.110(2) which shall be available for public inspection. The record shall be available on the Commission's website at [www.psc.state.ms.us](http://www.psc.state.ms.us). The user's guide section of the Commission's website shall inform the public how to retrieve rule-making

records. Computers designated for public access to the electronic rule-making records are available in the offices of the Commission and the Staff. This record shall contain:

1. Notice(s) of Proposed rule-making or notices of oral proceedings or other publications in the administrative bulletin;
2. Entries from the public rule-making docket;
3. All written comments, requests and other written materials considered;
4. Where transcribed, the official transcript of oral presentations made in the proceeding. If no transcription has occurred, then any tape recording or stenographer record of the presentations and any memorandum authorized by a presiding official which summarizes the contents of the presentations;
5. The economic impact statement; and
6. Text of the rule and required accompanying information pursuant to Miss. Code Ann. 25-43-3.109.

Those portions of the administrative bulletin and administrative code with accompanying index, which have been published by the Mississippi Secretary of State's Office which contains rules adopted or used by the Commission and the Staff in the discharge of each of their functions are available for public inspection and copying on the Commission's website or may be viewed at the Office of the Executive Secretary of the Commission.

#### **107 Maintenance of Mailing Lists**

The Executive Secretary of the Commission shall maintain a mailing list of all persons who have made a timely request to be placed on the mailing list for receiving notices of proposed rule adoptions.

Interested persons may contact the Executive Secretary of the Commission to be placed on the mailing list maintained by the Commission to receive notices of proposed rule adoptions.

Persons who desire to be placed on the mailing list must at the time of requesting placement on the mailing list provide a mailing address. Persons may request that the notice of proposed rule adoptions be provided by facsimile transfer or e-mail; in such case, FAX number and/or e-mail addresses must be provided to the Executive Secretary at the time of such request. However, it will be the option of the Executive Secretary as to the method of delivery of the requested notice(s) of proposed rule adoptions.

#### **108 Review of Rules Every Fifth Year**

On or around July 1<sup>st</sup> of each fifth year, the Commission will review its rules in compliance with Miss. Code Ann. §25-43-3.114.

## **Chapter 27 Special Contracts**

### **Rule 27**

#### **100 Special Contracts with Manufacturers and Certain Electric and Gas Customers**

Utilities may contract with a manufacturer that is not a utility for furnishing the services or commodities described in Miss. Code Ann. §77-3-3(d)(i),(ii), and (iii) for use in manufacturing. Utilities described in Miss. Code Ann. §77-3-3(d)(i) may also contract with a customer that has a minimum yearly electric consumption of 2,500 megawatt-hours or greater for furnishing the services or commodities described in § 77-3-3(d)(i). Utilities described in Miss. Code Ann. §77-3-3(d)(ii) may also contract with a customer that has a minimum yearly consumption of 8.5 million cubic feet or greater of gas for furnishing the services or commodities described in §77-3-3(d)(ii). Except for contracts with manufacturers, these contracts shall be at least one (1) year in duration. The contracts provided for by this rule may be entered into without reference to the rates or other conditions which may be established or fixed pursuant to other provisions of Title 77, Chapter 3, Article 1 of the Mississippi Code. Provided, however, that, before becoming effective, any such contract shall be approved by order of the Commission.

## **Chapter 28 Rules Implementing the Mississippi Telephone Solicitation Act**

### **Rule 28**

#### **100. General Rules**

##### **1. No Calls Database**

The Commission shall establish and operate a "no-calls" database composed of a list of residential telephone numbers of consumers who have given notice of their objection to receiving telephone solicitations. This database will be updated quarterly.

##### **2. Use and Access**

Information contained in the database may be used and accessed only for the purpose of compliance with the MTSA and shall not be otherwise subject to public inspection or disclosure.

##### **3. Availability**

The Commission shall make the "no-calls" database available to telephone solicitors on CD-Rom or via an Internet download.

##### **4. No Call List**

Except as otherwise provided for by law or regulation, a telephone solicitor may not make or cause to be made any telephone solicitation to any consumer in this state unless the telephone solicitor has purchased the "no-calls" database from the Commission. The annual fee for the database shall be one thousand dollars (\$1,000.00) per year if obtained via an Internet download or on CD-ROM. The fees for access to the "no-calls" database may be revised by the Commission upon proper notice of such change. The fee shall be paid at the time of registration.

##### **5. Registration**

All telephone solicitors, not exempt from the MTSA, must register annually with the Commission before conducting any telephone solicitations in the State of Mississippi. Solicitors must register via United States mail. Registration information can be found at the Commission's website.

##### **6. Requirements**

Telephone solicitors registering with the Commission shall provide:

###### **a. Company**

Name, address, telephone number(s), facsimile number(s), e-mail address and federal tax ID number of the company, partnership, or individual planning to operate in the state;



**b. Designated Agent**

Name and address of the registrant's designated agent for service located in this state;

**c. Surety Bond**

A surety bond, to be approved by the Commission, shall be filed with the Commission and executed for the registrant by a surety authorized to do business in this state for the sum of fifty thousand dollars (\$50,000) to be maintained in full force and effect, in favor of the Commission to guarantee payment of any administrative penalties assessed pursuant to a violation of the MTSA, these rules, or any other applicable law or regulation. A local exchange carrier or competitive local exchange carrier holding a Certificate of Public Convenience and Necessity from the Commission may petition the Commission for an exemption from this paragraph; and,

**d. Form**

Registration shall be done in the form and structure as provided by the Commission.

**7. Calls Not Allowed**

Except as otherwise provided by law or regulation, a telephone solicitor may not make or cause to be made any telephone solicitation to any consumer in this state who has given notice to the Commission of his or her objection to receiving telephone solicitations.

**8. Distribution**

With the exception of directory assistance and telephone directories sold or distributed by local exchange companies or their affiliates, or independent telecommunications directory publishers, no person or entity that sells, leases, or rents telephonic solicitation listings shall include in such listings any residential telephone number, if the number appears on the Commission's then current "no-calls" database.

**9. Consumer Registration**

Consumers may give notice to the Commission of their objection to receiving telephone solicitations by calling a toll free number, United States mail, via the Commission's web site, or facsimile. Consumers may give notice to the Commission of their revocation of the notice by writing the Commission. Consumer registration is effective as long as the MTSA is re-enacted.

**10. Schedule**

A notice of objection becomes effective according to the following schedule:

Registration received by:	List provided to solicitors:	List effective and enforceable on:
November 30 <sup>th</sup>	December 10 <sup>th</sup>	January 1 <sup>st</sup>
February 28 <sup>th</sup>	March 10 <sup>th</sup>	April 1 <sup>st</sup>
May 31 <sup>st</sup>	June 10 <sup>th</sup>	July 1 <sup>st</sup>
August 31 <sup>st</sup>	September 10 <sup>th</sup>	October 1 <sup>st</sup>

**11. Consumer Updates**

Consumers whose telephone number is included in the "no-calls" database who move, but maintain their current telephone number will not need to take action to remain in the database but they need to submit a change of address to the Commission. Consumers who are required to obtain a different telephone number must give notice to the Commission that they wish to have their new number included in the database.

**12. Authorized Telephone Solicitation**

Any person or entity who makes an authorized telephone solicitation to a consumer in this state shall comply with the following:

- a. Announce clearly, at the beginning of each call, his or her name, the company he or she represents, the company's Commission assigned solicitor registration number, and the purpose of the call.
- b. Calls may only be made between the hours of 8:00 a.m. and 8:00 p.m. Central Standard Time.
- c. No telephone calls can be made on a Sunday.
- d. A person or entity who makes a telephone solicitation to a consumer in this state may not knowingly utilize any method that blocks or otherwise circumvents the consumer's use of a caller identification service, nor may the person or entity use an automated dialing system or any like system that uses a recorded voice message to communicate with the consumer unless the person or entity has an established business relationship with the consumer and uses the recorded message to inform the consumer about a new product or service.

**13. Call Log**

A telephonic call log, with a minimum of six months data, shall be maintained by the telephone solicitor. The telephonic call log shall include:

- a. Number called
- b. Time called
- c. Date called

**14. Retention**

All ILECs and CLECs shall retain verbatim data for a period of ninety days.

**15. Definitions**

The definitions contained in MTSA, Section 3, are hereby incorporated by reference.

**101 Semiannual Notification to Consumers**

Each local exchange company and each competing local exchange company shall provide written notification on at least a semiannual basis to each of its consumers of the opportunity to provide notification to the Commission that the consumer objects to receiving telephone solicitations. The notification may be disseminated in a manner chosen by the carrier. However, television, radio or newspaper advertisements, written correspondence, publication in the consumer information pages of the local telephone directory, bill message or any other method of consumer notice not expressly prohibited by the Commission is allowed.

**102 Complaint Procedure**

**1. Form**

A complaint may be initiated by a consumer or by the Commission. All complaints shall be in writing and filed on a form which is accessible at the Commission's website or by contacting the Commission.

**2. Procedure**

The Commission will evaluate the complaint and determine if it alleges a prima facie violation of the MTSA or the rules implemented pursuant thereto or any other applicable law or regulation. A copy of the complaint shall be served on the alleged telephone solicitor by the Executive Secretary of the Commission. The alleged telephone solicitor shall fully answer the complaint in detail and under oath within thirty (30) days of receipt of notice. An extension of the time in which to answer a complaint may be granted by the Commission for good cause shown. The answer shall raise every defense the alleged telephone solicitor relies on, including an MTSA, Section 6 exemption. The answer may be filed electronically with the Commission, but it must be signed under oath. Otherwise, the answer may be filed with the Executive Secretary of the Commission. If multiple complaints are received, the Commission may notice the complaints in multiples. If the alleged telephone solicitor does not answer the complaint fully and in specific detail and under oath within the thirty (30) day period or within the period of such extension as the Commission may grant, the Commission may find the alleged telephone solicitor liable by default. In such event, or if the answer admits a violation of the MTSA, the Commission may assess an appropriate penalty pursuant to Section 13 of the MTSA or other applicable law or regulation. The penalty assessed shall be satisfied within 20 days from service of the Commission's Order finding the alleged telephone solicitor liable by default or by admission, unless a stay has been entered as provided by law.

**3. Preliminary Determination**

The Commission may make a preliminary determination based on the complaint and the answer and assess a penalty pursuant to Section 13 of the MTSA or other

applicable law or regulation. The alleged telephone solicitor shall accept or reject the preliminary determination within twenty (20) days from the service by the Commission. If accepted, the penalty imposed by the preliminary determination must be satisfied within twenty (20) days from the service of said preliminary determination. If rejected, the Commission will afford the alleged telephone solicitor an opportunity for a full hearing on the merits of the complaint. In any hearing, the complaint and the answer will be part of the record, along with all other complaints filed against the alleged telephone solicitor. At any point in the complaint resolution process, the Commission may agree to informally negotiate with the alleged telephone solicitor.

### **103 Violations**

#### **1. Penalty**

Any telephone solicitor found to have violated the MTSA or other applicable law or regulation pursuant to a Commission finding, or by default, may be subject to a civil penalty not to exceed Five Thousand Dollars (\$5,000) for each violation to be assessed and collected by the Commission. Each telephonic solicitation shall constitute a separate violation.

#### **2. Liable by Default**

Failure of any telephone solicitor on which a complaint is filed to provide any information requested by the Commission, or failure to answer a complaint in specific detail and under oath, or failure to appear before the Commission at the time prescribed, may result in the Commission finding the alleged violator liable by default.

#### **3. Surety Bond Assessment**

The Commission may proceed against the surety bond for any penalty assessed by the Commission, either by Order of the Commission finding the alleged telephone solicitor liable by default, admission of violation by the alleged telephone solicitor, acceptance by the alleged telephone solicitor of the Commission's preliminary determination, or by an Order of the Commission rendered after a hearing on the merits of the notarized Complaint, or otherwise, which penalty is not fully satisfied within 30 days after service of the Commission's action.

## Title 39: Utilities Part II: Appendices

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**APPENDIX "A"**  
**SCHEDULE 1**

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**CERTIFICATE PROCEEDINGS**  
**CERTIFICATES TO OPERATE/ALL UTILITIES**

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No. Copies  
Required,  
Including  
Original

In addition to the original and twelve (12) copies of the petition, the following items are required:

- |    |     |   |
|----|-----|---|
| 13 | 1.  | If a corporation, a copy of the corporate charter or its articles of incorporation as filed with the Secretary of State. If a partnership, a copy of any written partnership agreement.   |
| 13 | 2.  | If a foreign corporation, a copy of its authority to do business in the State of Mississippi.   |
| 13 | 3.  | A copy of any municipal franchise required by law.  |
| 13 | 4.  | If a corporation, the names and addresses of its board of directors, officers and any person owning fifteen percent (15%) or more of its stock. If not a corporation, the names and address of all owners or partners.  |
| 2  | 5.  | An outline map of any area for which a certificate is requested using Mississippi Department of Transportation county maps to a scale of one-half inch to the mile.   |
| 13 | 6.  | A full legal description of the proposed service area.  |
| 2  | 7.  | A map of sufficiently large scale to show boundaries of the proposed service area as well as relevant geographical features.  |
| 13 | 8.  | A general description of new facilities.  |
| 13 | 9.  | An itemized estimate of costs to the utility of all new investment.   |
| 13 | 10. | A listing of all sources of funding.  |
| 13 | 11. | An estimate of the impact of the cost of facilities upon rate base and rates. This item shall not apply to public utilities excluded from rate regulation pursuant to Miss. Code Ann. §77-3-1 or 77-3-5 or to public utilities heretofore or hereafter exempt by Commission order from rate base regulation or to public utilities whose rates are allowed, by Commission order, to be filed for informational purposes only. |
| 13 | 12. | The number of assured and prospective customers in (a) the new area; and (b) the existing certificated area.  |
| 2  | 13. | A complete set of engineering plans and specifications.   |

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**APPENDIX "A"                                  CERTIFICATE PROCEEDINGS**  
**SCHEDULE 1 (continued)      CERTIFICATES TO OPERATE/ALL UTILITIES**

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No. Copies  
Required,  
Including  
Original

- |    |     |   |
|----|-----|---|
| 13 | 14. | A copy of any required approvals from Health or Environmental Quality authorities.  |
| 13 | 15. | An exhibit listing the names and addresses of all interested persons as defined in RP 2.115 herein together with a certificate that the filing utility has served a notice of the filing upon each. |
| 13 | 16. | A copy of all testimony to be relied upon at hearing.   |
| 13 | 17. | A copy of the current balance sheet and income statement.   |

No.Copies  
Required,  
Including  
Original

In addition to the original and twelve (12) copies of the petition, the following items are required:

- 13 1. If the utility has made any revisions to its corporate charter or its articles of incorporation since receiving its initial authority to operate, provide a copy of said revisions. If a partnership, provide a copy of any revision to the original partnership agreement. If there have been no changes, provide the docket number of the proceeding in which the company received its initial authority to operate.
- 13 2. If a corporation, the names and addresses of its board of directors, officers and any person owning fifteen percent (15%) or more of its stock. If not a corporation, the names and addresses of all owners or partners.
- 13 3. An outline map using Mississippi Department of Transportation county maps to a scale of one-half inch to the mile showing the existing certificated area as well as the proposed additional area.
- 13 4. A full legal description of the new area.
- 2 5. A map of sufficiently large scale to show boundaries of the proposed service area as well as relevant geographical features.
- 13 6. A general description of new facilities.
- 13 7. An itemized estimate of costs to the utility of all new investment.
- 13 8. A listing of all sources of funding.
- 13 9. An estimate of the impact of the cost of facilities upon rate base and rates. This item shall not apply to public utilities excluded from rate regulation pursuant to Miss. Code Ann. §77-3-1 or §77-3-5 or to public utilities heretofore or hereafter exempt by Commission order from rate base regulation or to public utilities whose rates are allowed, by Commission order, to be filed for informational purposes only.
- 13 10. The number of assured and prospective customers in (a) the new area; and (b) the existing certificated area.
- 13 11. A complete set of engineering plans and specifications.
- 13 12. A copy of any required approvals from Health or Environmental Quality authorities.

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<b>APPENDIX "A"</b>	<b>CERTIFICATE PROCEEDINGS</b>
<b>SCHEDULE 2 (continued)</b>	<b>AREA CERTIFICATES/ALL UTILITIES</b>

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No.Copies  
Required,  
Including  
Original

- |    |     |   |
|----|-----|---|
| 13 | 13. | An exhibit listing the names and addresses of all interested persons as defined in RP 2.115 herein together with a certificate that the filing utility has served a notice of the filing upon each. |
| 13 | 14. | A copy of all testimony to be relied upon at hearing.   |
| 13 | 15. | A copy of the current balance sheet and income statement.   |



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**APPENDIX "A"**  
**SCHEDULE 3**

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**CERTIFICATE PROCEEDINGS**  
**FACILITIES CERTIFICATES/ALL UTILITIES**

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No. Copies  
Required,  
Including  
Original

In addition to the original and twelve (12) copies of the petition, the following items are required:

- 13 1. If the utility has made any revisions to its corporate charter or its articles of incorporation since receiving its initial authority to operate, provide a copy of said revisions. If a partnership, provide a copy of any revision to the original partnership agreement. If there have been no changes, provide the docket number of the proceeding in which the company received its initial authority to operate.
- 13 2. If a corporation, the names and addresses of its board of directors, officers and any person owning fifteen percent (15%) or more of its stock. If not a corporation, the names and addresses of all owners or partners.
- 13 3. An outline map of the utility's existing certificated area showing the location of the proposed new facilities.
- 13 4. A detailed description of the facilities proposed.
- 13 5. A copy of any required approvals from Health or Environmental Quality authorities.
- 13 6. An estimate of the cost to the utility and all sources of funding for the project.
- 13 7. A complete set of engineering plans and specifications.
- 13 8. An estimate of the impact of the cost of facilities upon rate base and rates. This item shall not apply to public utilities excluded from rate regulation pursuant to Miss. Code Ann. §77-3-1 or §77-3-5 or to public utilities heretofore or hereafter exempt by Commission order from rate base regulation or to public utilities whose rates are allowed, by Commission order, to be filed for informational purposes only.
- 13 9. An exhibit listing the names and addresses of all interested persons as defined in RP 2.115 herein together with a certificate that the filing utility has served a notice of the filing upon each.
- 13 10. All testimony to be relied upon at the hearing.
- 13 11. A copy of the current balance sheet and income statement.

No. Copies  
Required,  
Including  
Original

In addition to the original and three (3) copies of the notice, the following items are required:

- 4      1.      A general description of the facility or purchase proposed including:
- (a) The approximate location of the facility.
  - (b) The approximate cost of the facility.
  - (c) A brief description of the purpose or justification for the facility.
  - (c) A sketch or engineering drawing.
  - (d) The name, address and telephone number of the utility's employee responsible for the construction or acquisition of the facility and from whom further information may be obtained regarding the facility.
  - (f) A copy of any required approvals from Health or Environmental Quality authorities.

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**APPENDIX “B”  
SCHEDULE 1**

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**SALE OR TRANSFER PROCEEDINGS  
APPLICABLE TO ALL UTILITIES**

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No. Copies  
Required,  
Including  
Original

In addition to the original and twelve (12) copies of the petition, the following items are required:

- 13 1. For each party to the transaction, a copy of its corporate charter or articles of incorporation or, if a partnership, a copy of any written partnership agreement.
- 13 2. If a party to the transaction is a foreign corporation, a copy of its authority to do business in the State of Mississippi.
- 13 3. For each party to the transaction, the names and addresses of its board of directors, officers and any person owning fifteen percent (15%) or more of its stock. If not a corporation, the names and addresses of all owners or partners.
- 13 4. A copy of any and all written agreements concerning the proposed sale or transfer.
- 13 5. If any acquisition adjustment to rate base or expenses is sought, all supporting documentation, and legal authority, together with the details of all accounting adjustments proposed to be made.
- 13 6. A list of any other Mississippi utility operations owned, directly or indirectly, by either party.
- 13 7. For each party to the transaction, a balance sheet for the most recent month available which shall be not less than nine months prior to the filing date.
- 13 8. For each party to the transaction, an operating statement of revenues and expenses for the twelve months ending as of the date of the balance sheet.
- 13 9. An exhibit listing the names and addresses of all interested persons as defined in RP 2.115 herein together with a certificate that the filing utility has served a notice of the filing upon each.
- 13 10. In the case of a partial transfer or sale, the legal description of the certificated area being transferred and a reference to the orders or certificates granting said area to the transferring utility.
- 13 11. All testimony to be relied upon at hearing.

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**APPENDIX “C”  
SCHEDULE 1**

**RATE PROCEEDINGS  
STANDARD FILINGS/ALL UTILITIES**

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No. Copies  
Required,  
Including  
Original

In addition to the original and twelve (12) copies of the petition, the following items are required:

- 13    1.    All direct testimony to be relied upon including a statement of the proposed changes and the reasons for the changes.
- 13    2.    Schedule of present rates, fares, tolls, charges or rentals in effect and the changes proposed to be made.
- 13    3.    Sample tariffs implementing the changes. Proposed deletions to current tariff shall be shown by striking over such. Additions or amendments to existing tariff shall be underlined.
- 13    4.    Balance-sheet for the most recent month available which shall be not later than nine months prior to the filing date. For multi-state utilities, the balance sheet shall be for the company as a whole plus a balance sheet for Mississippi operations and a summary of the basis on which the estimate was prepared.
- 13    5.    Operating statement of revenues and expenses for twelve months ending as of the date of the balance sheet.
- 13    6.    Proforma operating statement in the same form as the actual operating statement beginning with the effective date of the proposed changes (a) without giving effect to changed rates (b) giving effect to changed rates.
- 13    7.    Statement showing (a) number of current customers by classes affected by the proposed changes (b) the actual revenue under the old rates arising from each class and (c) the annual amount of the proposed increase or decrease applicable to each class.
- 13    8.    As to public utilities described in Miss. Code Ann. §77-3-3 (d)(iv), description of the utility’s property, including a statement of the original cost and the cost to the utility. Provide a listing of all depreciable assets by applicable account number:
  1. Description of Asset;
  2. In Service Date;
  3. Original cost of asset to the utility;
  4. Life of Asset;
  5. Depreciation accrued to date.

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**APPENDIX "C"                      RATE PROCEEDINGS**  
**SCHEDULE 1 (continued)      STANDARD FILINGS/ALL UTILITIES**

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No. Copies  
Required,  
Including  
Original

- |    |     |  |
|----|-----|--|
| 13 | 9.  | Statement showing the utility's calculation of jurisdictional rate base including, if applicable, gross plant, accumulated depreciation, working capital, material and supplies, other properties and assets, accumulated deferred income taxes, customer deposits and investment tax credits. |
| 13 | 10. | Statement showing utility's calculation of return on rate base with and without the proposed increase.   |
| 13 | 11. | Federal Income tax returns and State Income tax returns, with all required attachments and schedules, for prior three years. If a consolidated return, the portion applicable to Mississippi.  |
| 13 | 12. | Copy of notice to customers sent pursuant to RP 9.   |
| 13 | 13. | (if corporation) Copy of charter or articles or incorporation.   |
| 13 | 14. | (if corporation) The amount and kinds of stock authorized, issued and outstanding.   |
| 13 | 15. | (if corporation) The number and amount of bonds authorized and the number and amount issued.   |
| 13 | 16. | (if corporation) The rate and amount of dividends paid during the five previous fiscal years and the amount of capital stock on which dividends were paid each year.   |
| 13 | 17. | (if corporation) An analysis of the surplus covering the period from the close of the last calendar year for which an annual report has been filed with the Commission to the date of the balance sheet attached to the notice.  |
| 13 | 18. | An exhibit listing the names and addresses of all interested persons as defined in RP 2.115 herein together with a certificate that the filing utility has served a notice of the filing upon each.  |
| 13 | 19. | The provisions of items 4, 5, 6, 9, 10 and 17 shall not be applicable to public utilities heretofore or hereafter exempt by Commission order from rate base regulation.  |

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**APPENDIX “C”  
SCHEDULE 2**

**RATE PROCEEDINGS  
MAJOR FILINGS/ALL UTILITIES**

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No. Copies  
Required,  
Including  
Original

In addition to the original and twelve (12) copies of the petition, the following items are required:

- 13 1. All direct testimony to be relied upon including a statement of the proposed changes and the reasons for the changes.
- 13 2. Schedule of present rates, fares, tolls, charges or rentals in effect and the changes proposed to be made.
- 13 3. Sample tariffs implementing the changes. Proposed deletions to current tariff shall be shown by striking over such. Additions or amendments to existing tariff shall be underlined.
- 13 4. Balance sheet for the most recent month available which shall be not later than nine months prior to the filing date. For multi-state utilities, the balance sheet shall be for the company as a whole plus an estimated balance sheet for Mississippi operations and a summary of the basis on which the estimate was prepared.
- 13 5. Operating statement of revenues and expenses for twelve months ending as of the date of the balance sheet.
- 13 6. Proforma operating statement in the same form as the actual operating statement beginning with the effective date of the proposed changes (a) without giving effect to changed rates (b) giving effect to changed rates.
- 13 7. Proforma operating statement in the same form as the actual operating statement for the same period giving effect to the proposed changes in rates and adjusted for known changes in the cost of operations.
- 13 8. Statement showing (a) number of current customers as of the date of filing the notice of intent by classes affected by the proposed changes (b) the actual revenue under the old rates arising from each class and (c) the annual amount of the proposed increase or decrease applicable to each class.
- 13 9. Statement showing the utility's calculation of jurisdictional rate base including, if applicable, gross plant, accumulated depreciation, working capital, material and supplies, other properties and assets, accumulated deferred income taxes, customer deposits and investment tax credits.



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**APPENDIX “C” RATE PROCEEDINGS**  
**SCHEDULE 3 MAJOR FILINGS OF \$15 MILLION OR MORE/ALL UTILITIES**

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No. Copies  
Required,  
Including  
Original

In addition to the original and twelve (12) copies of the petition, the following items are required:

- 13 1. All direct testimony to be relied upon including a statement of the proposed changes and the reasons for the changes.
- 13 2. Schedule of present rates, fares, tolls, charges or rentals in effect, and the changes proposed to be made.
- 13 3. Sample tariffs implementing the changes. Proposed deletions to current tariff shall be shown by striking over such. Additions or amendments to existing tariff shall be underlined.
- 13 4. Balance sheet for the most recent month available which shall be not later than nine months prior to the filing date. For multi-state utilities, the balance sheet shall be for the company as a whole plus an estimated balance sheet for Mississippi operations and a summary of the basis on which the estimate was prepared.
- 13 5. Operating statement of revenues and expenses for twelve months ending as of the date of the balance sheet.
- 13 6. Proforma operating statement in the same form as the actual operating statement beginning with the effective date of the proposed changes (a) without giving effect to changed rates (b) giving effect to changed rates.
- 13 7. Proforma operating statement in the same form as the actual operating statement for the same period giving affect to the proposed changes in rates and adjusted for known changes in the cost of operations.
- 13 8. Statement showing (a) number of current customers as of the date of filing notice of intent by classes affected by the proposed changes (b) the actual revenue under the old rates arising from each class and (c) the annual amount of the proposed increase or decrease applicable to each class.



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**APPENDIX “C”      RATE PROCEEDINGS**  
**SCHEDULE 3      MAJOR FILINGS OF \$15 MILLION OR MORE/ALL UTILITIES**  
**(continued)**

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No. Copies  
Required,  
Including  
Original

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|----|-----|--|
| 13 | 9.  | Statement showing the utility's calculation of jurisdictional rate base including, if applicable, gross plant, accumulated depreciation, working capital, material and supplies, other properties and assets, accumulated deferred income taxes, customer deposits and investment tax credits. |
| 13 | 10  | Statement showing utility’s calculation of return on rate base with and without the proposed increase.   |
| 13 | 11. | Federal Income tax returns and State Income tax returns, with all required attachments and schedules, for prior three years. If a consolidated return, the portion applicable to Mississippi.  |
| 13 | 12. | Copy of notice to customers sent pursuant to RP 9.   |
| 13 | 13. | Copy of charter or articles of incorporation.  |
| 13 | 14. | The amount and kinds of stock authorized, issued and outstanding.  |
| 13 | 15. | The number and amount of bonds authorized and the number and amount issued.  |
| 13 | 16. | The rate and amount of dividends paid during the five previous fiscal years and the amount of capital stock on which dividends were paid each year.  |
| 13 | 17. | An analysis of the surplus covering the period from the close of the last calendar year for which an annual report has been filed with the Commission to the date of the balance sheet attached to the notice.   |
| 13 | 18. | Guidelines or directives to the public utility’s presentation provided by a controlling affiliate, parent or holding company.  |
| 13 | 19. | Marginal cost data.  |
| 13 | 20. | Alternative rate design.   |
| 13 | 21. | Conservation effectiveness.  |

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**APPENDIX “C”      RATE PROCEEDINGS**  
**SCHEDULE 3      MAJOR FILINGS OF \$15 MILLION OR MORE/ALL UTILITIES**  
**(continued)**

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No. Copies  
Required,  
Including  
Original

- |    |     |  |
|----|-----|--|
| 13 | 22. | A properly prepared, complete, detailed lead/lag study for the test year for the total company, Mississippi retail, other retail jurisdictions, and Federal Energy Regulatory Commission wholesale rates (if applicable) in support of the public utility’s total working capital requirements contained therein, including all working papers in support thereof. |
| 13 | 23. | An exhibit listing the names and addresses of all interested persons as defined in RP 2.115 herein together with a certificate that the filing utility has served a notice of the filing upon each.  |
| 13 | 24. | The year of the last authorized major rate increase, amount of the increase and the docket number of the proceeding.   |
| 13 | 25. | The provisions of items 4, 5, 6, 7, 9, 10, 17 and 21 shall not be applicable to public utilities heretofore or hereafter exempt by Commission order from rate base regulation.   |

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**APPENDIX “C”  
SCHEDULE 4**

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**RATE PROCEEDINGS  
INITIAL FILINGS/ALL UTILITIES**

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No. Copies  
Required,  
Including  
Original

In addition to the original and twelve (12) copies of the petition, the following items are required:

- 13 1. All direct testimony to be relied upon.
- 13 2. Sample tariffs implementing the filing.
- 13 3. Balance sheet for the most recent month available which shall be not later than nine months prior to the filing date. For multi-state utilities, the balance sheet shall be for the company as a whole plus an estimated balance sheet for Mississippi operations and a summary of the basis on which the estimate was prepared.
- 13 4. Operating statement of revenues and expenses for twelve months ending as of the date of the balance sheet.
- 13 5. Proforma operating statement in the same form as the actual operating statement beginning with the proposed effective date of the tariffs.
- 13 6. A statement showing the number of current customers by classes and anticipated to be served during the test year and the anticipated revenues from them.
- 13 7. A description of the utility's property, including a statement of the original cost and the cost to the utility.
- 13 8. A statement showing the utility's calculation of jurisdictional rate base including, if applicable, gross plant, accumulated depreciation, working capital, material and supplies, other properties and assets, accumulated deferred income taxes, customer deposits and investment tax credits.
- 13 9. A statement showing utility's calculation of return on rate base for the proforma year.
- 13 10. Federal income tax returns and State income tax returns, with all required attachments and schedules, for prior three years.
- 13 11. (if corporation) Copy of charter or articles or incorporation.

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**APPENDIX “C”  
SCHEDULE 4 (continued)**

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**RATE PROCEEDINGS  
INITIAL FILINGS/ALL UTILITIES**

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No. Copies  
Required,  
Including  
Original

- |    |     |   |
|----|-----|---|
| 13 | 12. | (if corporation) The amount and kinds of stock authorized, issued and outstanding.  |
| 13 | 13. | (if corporation) The number and amount of bonds authorized and the number and amount issued.  |
| 13 | 14. | (if corporation) The rate and amount of dividends paid during the five previous fiscal years and the amount of capital stock on which dividends were paid each year.  |
| 13 | 15. | (if corporation) An analysis of the surplus covering the period from the close of the last calendar year for which an annual report has been filed with the Commission to the date of the balance sheet attached to the notice. |
| 13 | 16. | An exhibit listing the names and addresses of all interested persons as defined in RP 2.115 herein together with a certificate that the filing utility has served a notice of the filing upon each.                             |

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**APPENDIX “C” RATE PROCEEDINGS**  
**SCHEDULE 5 ROUTINE FILINGS/TELECOMMUNICATION PROVIDERS ONLY**

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No. Copies  
Required,  
Including  
Original

In addition to the original and nine (9) copies of the petition, the following items are required:

- |   |    |   |
|---|----|---|
| 9 | 1. | A clear, concise and nontechnical description of the nature of the service or change proposed.                |
| 9 | 2. | A statement of the reasons or the justification therefore.  |
| 9 | 3. | Sufficient information to allow the determination of the approximate size of the revenue adjustment proposed. |
| 9 | 4. | Sample tariffs implementing the filing.   |

**BEFORE THE MISSISSIPPI PUBLIC SERVICE COMMISSION**

**Docket #** \_\_\_\_\_

**RE: NOTICE OF \_\_\_\_\_  
UTILITY COMPANY OF  
INTENT TO INCREASE RATES  
FOR \_\_\_\_\_ SERVICE  
IN ITS CERTIFICATED AREA  
IN \_\_\_\_\_ COUNTY,  
MISSISSIPPI**

**RP 9 DESIGNATION: PETITIONER DESIGNATES THIS FILING AS A  
\_\_\_\_\_  
FILING UNDER RP 9**

**PROPOSED EFFECTIVE DATE:** \_\_\_\_\_  
**PROPOSED TEST YEAR:** \_\_\_\_\_

**NOTICE OF INTENT TO CHANGE RATES**

Comes Now, \_\_\_\_\_ Utility company, by and through its  
\_\_\_\_\_, hereinafter referred to as  
Petitioner, and pursuant to Miss. Code Ann. §77-3-37 gives notice of its intent to change rates  
and tariffs for the rendition of \_\_\_\_\_ service to its customers and would show as  
follows, to-wit:

**I.**

Petitioner is a public utility as defined in Miss. Code Ann. §77-3-3 and is engaged in the  
business of providing \_\_\_\_\_ service to and for the public for compensation in  
\_\_\_\_\_ County, Mississippi, having its principal place of business at \_\_\_\_\_.  
Petitioner's mailing address is \_\_\_\_\_.

**II.**

Petitioner is the holder of a Certificate of Public Convenience and Necessity authorizing  
its operations in a specified area of \_\_\_\_\_ County, Mississippi, and is rendering service  
in accordance with its service rules and regulations and in accordance with a schedule of rates  
and charges, both of which are a part of its tariff that has been previously approved by order of  
this Commission.

III.

Petitioner proposes to make changes in its rates, presently on file with the Commission, effective for services rendered on and after such date.

IV.

Petitioner would show that it has carefully reviewed its operating methods and has taken all feasible steps to reduce normal monthly overhead and operating costs and believes that it is operating and maintaining its system in an economical manner. Petitioner would show that the changes in rates and tariffs noticed herein are required and necessary in order to meet customer requirements and to provide adequate return on the reasonable value of the property used and useful in furnishing service.

V.

Petitioner proposes herewith a tabulation of revised rates applying to its certificated area in \_\_\_\_\_ County, Mississippi, and respectfully requests that such increased rates be received and approved in accordance with all applicable provisions of law and all Commission regulations. Subsequent to the final adjudication of these proceedings, Petitioner will furnish and file appropriate revised tariffs in order that updated tariffs will be continuously available to its customers and the Commission.

VI.

In support of this notice, petitioner files herewith the following data and documentation in accordance with the requirements of Commission RP 9:

Exhibit#	Description
<u>(Insert description of documentation from appropriate appendix and schedule.)</u>	

Wherefore, Petitioner asks that this, its notice, be received and filed and that the proposed rates set forth herein be recognized as the authorized rates to be charged for \_\_\_\_\_ service to its customers on and after \_\_\_\_\_.

Respectfully submitted this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Petitioner)

BY: \_\_\_\_\_

STATE OF MISSISSIPPI

COUNTY OF \_\_\_\_\_

Personally appeared before me, the undersigned authority, who, after first being duly sworn, deposes and says that he has filed the above and foregoing for and on behalf of utility, that he is fully authorized to do so, and that the statements contained in the notice filing and exhibits thereto are true and correct to the best of his knowledge, information and belief.

Sworn to before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

---

Notary Public

My Commission Expires: \_\_\_\_\_



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**APPENDIX “E” PURCHASED POWER**

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No. Copies  
Required,  
Including  
Original

The original and twelve (12) copies of the report, as required in RP 25, shall be filed with the Commission, which report shall include the following information:

- |    |    |   |
|----|----|---|
| 12 | 1. | The name and address of the seller(s).  |
| 12 | 2. | The identity of the generating unit(s) out of which the capacity will be delivered, if a specific unit is designated.             |
| 12 | 3. | The terms and conditions of the purchase.   |
| 12 | 4. | The portions of the purchase cost which shall be designated as capacity related and energy related.                               |
| 12 | 5. | A statement with supporting documentation as to why the purchase is in the best interest of the utility and its retail customers. |
| 12 | 6. | The rate of return sought.  |
| 12 | 7. | An effective date, not less than thirty (30) days after the date that the utility files its report.                               |

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