

**PROPOSED CHANGES TO THE  
COMMISSION'S RULES OF PROCEDURE  
IDAPA 31.01.01**

The Commission is proposing to amend several of its Rules of Procedure, IDAPA 31.01.01. The reasons for the proposed changes can be broken down into several areas: (1) conform the Commission's testimony and transcript rules to changes in the Supreme Court's Appellate Rules; (2) change Rule 43 (Representation of Parties) to conform to recent Supreme Court opinions regarding the representation of partnerships and corporations; (3) make it easier to determine when telephone companies are no longer conducting business in Idaho; and (4) improve the clarity of rules and make other housekeeping changes.

To facilitate your review of the proposed changes, the reasons for the substantive changes to the procedural rules are discussed before each rule in chronological order below.

**THE PROPOSED RULE CHANGES**

**Rule 0:** The Commission proposes to update the citations of legal authority contained in this rule. This rule was last updated in 2000. Since that time, the Commission has been granted additional authorities in: Stray Current and Remediation Act (61-801 *et seq.*); Utility Cost Reduction Bonds Act (61-1601 *et seq.*); Electric Transmission Facilities Act (61-1701 *et seq.*); the Broadband Tax Credit Act (63-3029I); and other statutes.

**000. LEGAL AUTHORITY (RULE 0).**

These rules are adopted under the general legal authority of the Public Utilities Law, Chapters 1 through 7, Title 61, Idaho Code; Chapters ~~9,~~ 8 through 10, and 13, 15 through 17, Title 61, Idaho Code; Chapters 3 and 4, Title 62, Idaho Code; the Telecommunications Act of 1988, as amended, Chapter 6, Title 62; and Chapters ~~12,~~ 12, ~~Title 62,~~ Title 62, ~~Idaho Code,~~ Chapter and 13, Title 62, Idaho Code; and the particular authority of Sections 56-904, 61-304 through 61-309, 61-501, ~~61-502,~~ ~~61-503~~ through 61-505, 61-507, 61-516, 61-538, 61-541, 61-601 through 61-607, 61-610 through 61-619, 61-6201 through 61-626, 61-803 through 61-806, 61-902 through 61-905, 61-909, 61-1003 through 61-1005, 61-1007, 61-1305, 61-1306, 61-1603 through 61-1607, 61-1703 through 61-1709, 62-304, 62-305, 62-424, 62-604, 62-605, 62-608 through 62-612, 62-610A through 62-610F, 62-614 through 62-616, 62-619, 62-622, 62-622A, 62-1201 through 62-1207, 62-1303, and 62-1304, 63-3029I, and 67-6528, Idaho Code. (4-5-00)( )

**Rule 5:** Staff recommends that the Commission add a definition for the term “utility” as used in the Rules of Procedure.

**005. DEFINITIONS (RULE 5).**

Terms of art used throughout these rules are defined within the rules themselves. The term “utility” used in these rules includes every common carrier, pipeline corporation, gas corporation, electric corporation, telephone corporation, and water corporation as defined in Chapter 1, Title 61, Idaho Code, and Section 62-602, Idaho Code. (7-1-93)( )

**Rule 16:** Currently Subsection 02 of Rule 16 requires utilities to designate a person for the receipt of service. The recommended changes to the title of the rule and new Subsection 03 sets out the designation requirement more clearly in its own subsection.

**016. SERVICE BY COMMISSION – DESIGNATION OF AGENT (RULE 16).**

The Commission Secretary serves all notices, orders, summonses, and complaints issued by the Commission or by the Secretary. (7-1-93)

**01. Service of Orders and Notices.** All notices and orders served by the Commission may be served by United States mail. Notices and orders may also be served by electronic mail in cases designated by the Commission. Unless otherwise provided by statute, these rules, order or notice, service of orders and notices is complete when a copy, properly addressed and stamped, is either deposited in the United States mail or transmitted electronically. All orders and notices shall be affixed with the Commission Secretary’s official service date on the first page. The Commission Secretary will serve all orders and notices in a proceeding on the representatives of each party designated pursuant to Rule 41 for that proceeding and upon other persons designated by these rules or by the Commission or any Commissioner. (3-16-04)

**02. Service of Summonses and Complaints.** The Commission Secretary will serve complaints against utilities upon the person designated for that purpose by the utility. ~~All utilities must maintain on file with the Commission Secretary a designation of such a person.~~ Summonses and complaints directed to regulated utilities or other persons shall be served by registered or certified mail. Writs of summons or subpoena and warrants of attachments directed to all other persons must be served by a person authorized to serve process by statute or by the Idaho Rules of Civil Procedure. (4-5-00)( )

**03. Designation of Agent for Service.** All utilities shall designate a person as their agent to be served with summons and complaints. Utilities shall be responsible for maintaining on file with the Commission Secretary the current

name, mailing address and e-mail address of the person designated as the agent to receive service. ( )

**Rule 19:** The Idaho State Bar has proposed changing the rule number of the “Limited Admissions/Pro Hac Vice” rule. The four changes to this section are housekeeping changes to update the reference to the current Idaho Bar Commission rule number.

**019. INCORPORATED BY REFERENCE – IDAHO BAR COMMISSION RULE (RULE 19).**

Rule 43 incorporates by reference Idaho Bar Commission Rule 2227 (Limited Admission/Pro Hac Vice) effective \_\_\_\_\_, 2010. Bar Rule 2227 is promulgated by the Idaho State Bar and adopted by order of the Idaho Supreme Court. Bar Rule 2227 may be obtained from the Idaho State Bar, PO Box 895, Boise, ID 83701, or online at [www2.state.id.us/isb/](http://www2.state.id.us/isb/) [www.isb.idaho.gov](http://www.isb.idaho.gov) under the “Rules” icon. Bar Rule 2227 is also available for inspection and copying at the Idaho State Law Library or at the offices of the Idaho Public Utilities Commission. (3-16-04)( )

**Rule 20:** The Commission proposes adding a new rule regarding the discontinuance of telecommunications services in Idaho. This rule would require that a telephone corporation intending to discontinue service notify the Commission of this fact. This would allow the Commission Staff to keep better track of companies operating in Idaho and would allow the fiscal division to more easily update its assessment records.

**020. (RESERVED). DISCONTINUANCE OF TELECOMMUNICATIONS SERVICE (RULE 20).**

A telephone corporation that intends to discontinue service in Idaho shall file a notice with the Commission at least ninety (90) days in advance of the date that it intends to cease operations. The telephone corporation proposing to discontinue service shall also publish a notice of such discontinuance in a legal newspaper circulated in its service area pursuant to Section 62-612, Idaho Code. If the telephone corporation held any customer deposits or advance payments, the telephone corporation shall indicate in the notice how the deposits are to be returned to customers. See also IDAPA 31.41.01.312 ( )

**Rule 43:** The Commission is proposing to update Rule 43 to conform to a recent Idaho Supreme Court opinion. The existing Rule 43 governs the representation of parties at PUC proceedings. The existing rule generally follows the contours set out by our Supreme Court in *Idaho State Bar Association v. Idaho PUC*, 102 Idaho 672, 637 P.2d 1168 (1981). In that

opinion, the Court indicated that it had no objection to the Commission's procedural rules regarding representation

To the extent they allow representation of a sole proprietorship by the owner, or representation of a partnership by the partners, or representation of a corporation or non-profit organization by the officers of those entities. . . . It is well settled that in proceedings before a regulatory body such as the Commission, that third persons unconnected with the entity in acting in a representative capacity in such proceedings would necessarily be engaged in the activities commonly associated with the practice of law.

*Id.* at 676, 637 P.2d at 1172. The Court also recognized that many proceedings before the Commission “often involve matters more administrative than judicial in nature, [consequently] some relaxation of the traditional rule against the practice of law by lay persons is appropriate.”

*Id.*

In 1985, the Court had an occasion to revisit the issue of representing another entity before a public agency. In *Kyle v. Beco Corporation*, 109 Idaho 267, 707 P.2d 378 (1985), the Court was asked to invalidate an Industrial Commission practice (subsequently a rule) which restricted the representation of a corporation to Idaho licensed attorneys. In the underlying administrative proceeding, an Industrial Commission referee denied the president and sole shareholder of Beco Corporation the opportunity to cross-examine witnesses and present a closing argument in a worker's compensation proceeding. In affirming the Industrial Commission's decision, the Court stated that

The general rule among this and other states has been that representation of another person before a public agency or service commission constitutes the unauthorized practice of law, where the proceedings before those tribunals are held for purposes of adjudicating the legal rights or duties of a party.

*Id.* at 271, 707 P.2d at 382 (emphasis added).

In dissent, Justice Bakes voiced surprise that the majority cited the *Idaho State Bar* case as its lead authority to support its holding. He noted that the Court in the *State Bar* opinion relaxed the traditional rule of representation in administrative proceedings before the PUC. Justice Bakes urged Beco to seek rehearing so that “sole owner and officer of a small family-held corporation” could represent his business in the Industrial Commission proceeding. *Kyle v. Beco*, 109 Idaho at 272-73, 707 P.2d at 383-84 (J. Bakes, Dissenting). The Court subsequently denied rehearing.

More recently in *Indian Springs v. Indian Springs Land Investment*, the Court again had an opportunity to review the question of who may represent a business entity. 147 Idaho 737, 215 P.3d 457 (2009) (rehearing denied). In *Indian Springs*, non-attorney principals sought to represent a limited liability company, a partnership, and two trusts in a civil action filed in Idaho District Court. After reviewing the issue of representation, the Court stated that

the law in Idaho is that a business entity, such as a corporation, limited liability company, or partnership must be represented by a licensed attorney before an administrative body or a judicial body. . . . It is fairly well-established that a trustee's duties in connection with his or her office do not include the right to present an argument *pro se* in the courts.

*Id.* at 744-45, 215 P.3d at 464-65 (emphasis added). The Court did not reference or acknowledge the *Idaho State Bar* case.

Based upon *Kyle* and *Indian Springs*, the Commission has refined the requirements of its Rule 43. In administrative proceedings (e.g., tariff advices, tariff schedules, price lists, interconnection agreements), Staff believes that these type of administrative filings may be made by "a natural person *pro se*, a partner in a partnership, an employee or officer of a corporation, or an attorney." However, in quasi-judicial proceedings "for the purpose of adjudicating the legal rights or duties of a party," a partnership, corporation, governmental agency, non-profit organization, or other entity must be represented by a licensed attorney.

**043. REPRESENTATION OF PARTIES ~~AT PROCEEDINGS~~ (RULE 43).**

~~Recognizing that p~~Proceedings before the Commission are sometimes administrative in nature or quasi-judicial in nature, ~~appearances and~~

(3-16-04)( )

**01. Administrative Proceedings.** Administrative proceedings before the Commission include matters such as the filing of tariff schedules, tariff advices, price lists, certificates to provide local exchange service, interconnection agreements, written comments in modified procedure, or written comments provided at a customer hearing. These filings may be made by a natural person *pro se*, a partner in a partnership, an employee or officer of a corporation, or a licensed attorney. ( )

**02. Quasi-Judicial Proceedings.** The representation of parties at quasi-judicial proceedings for the purpose of adjudicating the legal rights or duties of a party is restricted as set out below. Quasi-judicial proceedings before the

Commission include matters such as formal complaints, petitions, motions, applications for modified procedure or technical/evidentiary hearings. Representation of parties at these types of proceedings shall be as follows:( )

~~01a. Natural Person.~~ A natural person ~~must~~ may represent himself or herself or be represented by a ~~duly authorized employee, or an licensed~~ attorney. (3-16-04)( )

~~02b. Partnership.~~ A partnership or corporation ~~must shall~~ be represented by a ~~partner, duly authorized employee, or an licensed~~ attorney. (7-1-93)( )

~~03. Corporation.~~ A corporation ~~must be represented by an officer, duly authorized employee, or an attorney.~~ (7-1-93)

~~04c. Other Entity.~~ A municipal corporation,; a state, federal, tribal, or local government agency,; ~~or entity, an unincorporated association,; or a non-profit organization, or other entity~~ must shall be represented by ~~an officer, a duly authorized employee or an licensed~~ attorney. (7-1-93)( )

**053. Attorney Representation.** Only an active member of the Idaho State Bar may represent a party as an attorney except as provided by Idaho Bar Commission Rule 2227 (Limited Admission/Pro Hac Vice). The Commission adopts by incorporation Bar Rule 2227 as modified below. (3-16-04)

a. ~~Given the administrative nature of many proceedings, limited admission by out-of-state attorneys will not be necessary in conjunction with administrative filings such as tariff schedules, tariff advices, price lists, certificates to provide local exchange service, and interconnection agreements. Out-of-state attorneys representing the same party in one (1) or more quasi-judicial cases proceedings (such as formal complaints, motions, petitions, and applications that request modified procedure or an evidentiary hearing), must request limited admission at least one (1) time per calendar year.~~(3-16-04)( )

b. An attorney applying for limited admission to appear before the Commission in a representative capacity shall file a written motion with the Commission Secretary and serve a copy on all parties. The motion shall be substantially in the form set out in Bar Rule 2227(1) with references to the Commission instead of the court. (3-16-04)( )

c. A copy of the written motion shall be submitted to the Idaho State Bar accompanied by the fee prescribed by in Bar Rule 2227(j). (3-16-04)( )

**Rule 121:** The Commission proposes to update the citations contained in Subsection 01.c. given the recent deletion of IDAPA 31.21.02.

**121. FORM AND CONTENTS OF APPLICATION TO CHANGE RATES (RULE 121).**

**01. Utility Applications to Change Rates.** Applications by any public utility to increase, decrease or change any rate, fare, toll, rental or charge or any classification, contract, practice, rule or regulation resulting in any such increase, decrease or change must include the following data: (4-5-00)

a. An exhibit showing in full each proposed change in rates, tolls, rentals, charges, rules or regulation by striking over proposed deletions to existing tariffs and underlining proposed additions or amendments to existing tariffs, except applications to increase or decrease all or almost all rates and charges by a uniform percentage or by a uniform amount may be made by filing a tariff listing the proposed change and all unchanged rates and charges or rates and charges not changed by a uniform percentage or a uniform amount, or by use of another designation previously approved by the Commission that clearly calls attention to all proposed changes in numbers or wording. (7-1-93)

b. If the application is subject to Rule 122, a complete justification of the proposed increase in the form of testimony and exhibits or a narrative exposition. (7-1-93)

c. If the application is subject to Rule 122, ~~when a general change in recurring rates is proposed,~~ a statement showing how the application has been brought to the attention of affected customers ~~under IDAPA 31.21.02.102 or 31.41.02.102~~ and a copy of the press release and customer notice required by Rule 125. (7-1-93)( )

d. A statement that the applicant stands ready for immediate consideration of the application. (7-1-93)

e. If the application is subject to Rule 122, testimony and exhibits showing financial statements, cost of capital and appropriate cost of service studies.(7-1-93)

f. Workpapers or documentation showing how test year data were adjusted.(7-1-93)

g. If the applicant provides utility service in states other than Idaho or utility service subject to federal regulation, a jurisdictional separation of all investments, revenues and expenses allocated or assigned in whole or in part to Idaho intrastate utility business regulated by this Commission showing allocations or assignments to Idaho. (7-1-93)

**02. Proposals Based upon Computer Modeling.** In addition, in any application in which a computer model is used to represent or simulate processes from which the revenue requirement is derived or upon which allocations of the revenue requirement to different customer classes are based, complete documentation of all those computer models must be supplied to the Staff, upon request, and be available in the utility's office or other depository. The Staff may request that the computer model itself be provided. A computer model includes the representation or simulation of a process, but does not mean or include the compilation of actual data. The application must state that the documentation of the models already on file in the applicant's office or other depository fully describes the models or that necessary updates or additions to previous documentation that will fully describe the models is on file and will be supplied on request. (4-5-00)

**03. Grounds for Returning or Dismissing Application.** Failure to comply with Rule 121.01 and 121.02 of this rule is grounds to return or dismiss an application under Rule 65. (7-1-93)

**Rule 125:** The Commission proposes to clarify this rule to distinguish the types of customer notices required for increases and decreases in rates.

## **125. NOTICES TO CUSTOMERS OF PROPOSED CHANGES IN RATES (RULE 125).**

### **01. Customer Notice of a Change in Rates.** (5-8-09)

**a.** If a utility is requesting a rate increase, the utility shall issue a customer notice to each customer. The customer notice shall include a brief explanation of the utility's need for additional revenue and the dollar amount requested. The notice shall give the proposed overall percentage change from current rates as well as the proposed percentage increase in revenue for each major customer class. ( )

**b.** If the utility is requesting a rate decrease, the utility shall issue a customer notice to each customer. The customer notice shall include a brief explanation of the reason(s) for the decrease, the overall dollar amount of the proposed decrease, and the proposed percentage decrease for each major customer class. ( )

**c.** The customer notice shall make it clear that the application is a proposal, subject to public review and a Commission decision. It shall also inform customers that a copy of the utility's application is available for public review at the offices of both the Commission and the utility, and on the Commission's homepage. ( )

**02. Timing of Notice for Trackers or Annual Cost Adjustments.** Tracker adjustments occasioned by federal action that result in an increase or decrease in rates may be brought to the attention of customers in compliance with this rule after approval by the Commission. ~~All~~ Other tracker or annual cost adjustment cases that result in an increase in rates remain subject to the requirements of advance notice contained in this rule. Other tracker or annual cost adjustment cases that result in a decrease in rates may be brought to the attention of customers in compliance with this rule after approval by the Commission. (5-8-09)( )

**03. Distribution of Customer Notices.** The customer notices referred to in Subsection 125.01 may be mailed to customers as bill stuffers over the course of a billing cycle or may be contained in additional comment pages to the customer's monthly bill. If additional comment pages are used, the information required by this rule is to be clearly identified, easily understood, and pertain only to the proposed rate change. (5-8-09)

**04. Press Release.** In instances covered by Subsection 125.01, the utility shall also send a press release containing, at minimum, the same information presented in the customer notices to all newspapers, radio, and television stations listed on the Commission's news organization list for that utility. The press releases shall be mailed or delivered simultaneously with filing of the application. (5-8-09)

**05. Filing of a Press Release and Customer Notice.** A copy of the press release and customer notice shall be filed with the application. (5-8-09)

**06. Purposes and Effects of This Rule.** The purposes of Subsections 125.01 through 125.05 of this rule are to encourage wide dissemination to customers of information concerning proposed rate changes for utility services. It is not a purpose of these subsections to create due process or other procedural rights in customers by expanding, contracting, or otherwise modifying the notice and due process rights of customers under the Public Utilities Law and the Commission's Rules of Procedure, IDAPA 31.01.01. Accordingly, Subsections 125.01 through 125.05 of this rule create no individual procedural rights in any customer for notice that would give rise to a due process or other procedural claim cognizable by the Commission, but failure to comply with Subsections 125.01 through 125.05 of this rule can be grounds for returning an application for incompleteness. (5-8-09)

**Rules 231 and 286:** The Commission is recommending changes to these two rules based upon recent amendments to the Idaho Appellate Rules. In particular, the Idaho Supreme Court no longer requires that transcripts be submitted in "ASCII" format. Consequently, Staff is

recommending that this computer format be deleted from Rule 231.05. See I.A.R. 24(a) (deleting the language about a computer searchable disk in ASCII format).

In addition, the recently amended Appellate Rules now allow for “compressed transcripts.” As recommended below, Staff proposes that any party may request a compressed transcript with no more than four pages of regular transcript on each page. I.A.R. 26(m) and (p).

### **231. PREPARED TESTIMONY AND EXHIBITS (RULE 231).**

**01. Prepared Testimony May Be Required.** Order, notice or rule may require a party or parties to submit prepared testimony and exhibits to be presented at hearing. (7-1-93)

**02. Format for Prepared Testimony.** (7-1-93)

a. Prepared testimony and exhibits must be accompanied by a cover sheet showing the case caption and case title, the person testifying, the party for whom the testimony is offered, and the nature of the testimony (direct, rebuttal, etc.). (7-1-93)

b. The first page of prepared testimony should contain testimony only (i.e., it should begin with the first question to the witness and not repeat the information on the cover page). (7-1-93)

c. Prepared testimony must be submitted on white eight and one-half by eleven inch (8-1/2” x 11”) paper, be double-spaced (except for quoted material and tables or other collections of numerical data), and contain no more than ten (10) characters per inch and no ~~more~~ less than twenty-five (25) lines of double-spaced testimony or more than thirty (30) lines per page. Each page may be printed on the front and back (duplexed). (5-8-09)(    )

d. Each line of prepared testimony must be numbered at the left margin (except single spaced quotations or tables of numerical data, which may be numbered at the left margin as though they were double spaced). Each page of testimony must have a one and one-half (1-1/2) inch left margin that will allow the page to be bound on its left side without obscuring the printed material. Indentations for paragraphing and for “Q” and “A” must be seven (7) spaces. (7-1-93)

e. Each page of prepared testimony must be numbered at the lower right corner and must be blank in the center of the bottom margin to allow the reporter to insert transcript page numbers there. Each page of prepared testimony must have at least a one-inch (1”) top and bottom margin. (7-1-93)

f. Each page of prepared testimony must contain the witness’s surname followed by the designation “Di” (signifying direct testimony) or “Di-Reb”

(signifying direct testimony on rebuttal) and the name of the party sponsoring the testimony printed in the lower right margin. For example, the marginal notation on page 5 of the testimony of the witness Lynn Accountant of ABC Company would be:

|                |    |                  |
|----------------|----|------------------|
| 5              | or | Accountant, Di 5 |
| Accountant, Di |    | ABC Company      |
| ABC Company    |    |                  |

(7-1-93)

**03. References to Exhibits.** All references to exhibits in prepared testimony must refer to the exhibits by their number as assigned by the Commission Secretary. Exhibits accompanying prepared testimony must be consecutively numbered from the first exhibit number assigned to the party by the Commission Secretary if the party has not previously identified exhibits, or from the highest exhibit number previously identified by that party. Exhibits must be filed on eight and one-half by eleven inch (8-1/2" x 11") paper unless it is impractical to make them that size. Exhibits accompanying prepared testimony must comply with Rule 267. (7-1-93)

**04. Number of Copies -- Filing and Service.** Unless otherwise provided by order, notice or agreement of the parties, nine (9) legible copies of prepared testimony and exhibits must be filed with the Commission Secretary and copies filed on all parties pursuant to Rules 61, 62, 63 and 64 at least fourteen (14) days before the hearing at which they will be presented. The original, if there is an original, or one (1) of the copies, if there is not, must be specifically designated as the reporter's copy by cover sheet, attached note or otherwise, and be included with the copies filed with the Commission Secretary. In special circumstances, notice or order may provide that the reporter's copy of prepared testimony and exhibits be served directly on the reporter rather than the Commission Secretary. (7-1-93)

**05. Computer-Searchable Copies of Testimony.** In addition to the paper copies of prepared testimony, the Commission Secretary may also require or the parties may agree that some or all of the prepared testimony to be submitted to the Secretary, parties and the reporter in computer searchable CD-ROM without password protection. The CD-ROM shall be in standard ASCII format, Adobe Acrobat (PDF), or other searchable format agreed upon by the reporter and the parties. Each CD-ROM shall be labeled with the Commission's case number, case name, the name of each witness and the sponsoring party. (5-8-09)( )

## **286. TRANSCRIPTS (RULE 286).**

**01. Form of Transcripts -- Cover Sheet.** Transcripts must be prepared on white eight and one-half by eleven inch (8 1/2" x 11") paper. The line of each page shall be double-spaced with a minimum of twenty-five (25) lines and a

maximum of thirty (30) lines per page. Quotations, citations and parenthetical notes may be single-spaced. Each line shall be numbered on the left margin. The cover page of each volume of transcript must show the title of the proceeding, the case number, the presiding officer, the time and place of hearing, and other information as shown in the following example:

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

(TITLE OF  
PROCEEDING)

CASE NO. XXX-X-XX-XX

(COMMISSIONER Able Baker, Presiding)

(HEARING OFFICER Charlie Dog, Presiding)

(Date, e.g., January 21, 1983)

(Hearing Room, e.g., Commission Hearing Room)

(Address, e.g., 472 West Washington, Boise, Idaho)

(7-1-93)(    )

**02. Volumes of Transcript -- Indices to Volumes.** Each day of hearing must be transcribed in a volume or volumes separate from other days of hearing. Each volume of transcript must begin with a list of the parties who appeared that day and their representatives at hearing that day. This list must be followed with a list of all witnesses whose testimony is reported in that volume, showing the pages at which each witness's testimony begins, what party (if any) called the witness, the pages upon which each other party's examination begins, the pages upon which each Commissioner's or hearing examiner's examination begins, and the pages upon which redirect examination or any party's, Commissioner's or hearing examiner's re-examination begins. These lists must be followed with a list showing all exhibits identified in that volume of transcript (including exhibits accompanying prepared testimony), the pages upon which they are first identified, and, if any exhibits are denied admission, the pages upon which the exhibits are denied admission. (7-1-93)

**03. Matters Included in Transcript.** The transcript must contain all discussions on the record while the hearing is in order. Unless otherwise directed by the Commission, the presiding officer, or the Commission Secretary, prepared testimony must be included in the transcript without change or retyping. Witness's corrections to prepared testimony should be made by distributing replacement pages to the reporter and describing those corrections on the record and/or distributing an errata sheet; unless otherwise directed, no corrections other than replacement pages will be made in the prepared testimony before it is incorporated in the transcript, except the reporter may make minor corrections by interlineation in the prepared testimony. Witnesses may have seven (7) days after hearing to distribute replacement pages to all parties and to the reporter, unless the Commission,

the presiding officer or the Commission Secretary otherwise directs. (7-1-93)

**04. Margin Notes.** The testimony of all witnesses reported in the transcript must be designated in the lower right margin by the witness's surname and the party sponsoring the witness's testimony. Witnesses not sponsored by any party must be designated "Public." The type of testimony must be shown following the witness's surname as "Di" (direct or redirect), "X" (examination by any party not sponsoring the witness), or "Com" (examination by a Commissioner or hearing examiner). Examples of the designations required by this Rule follow:

|                 |                               |
|-----------------|-------------------------------|
| Accountant, Di; | Accountant, Com; Ratepayer, X |
| ABC Company     | ABC Company Public            |

Discussions on the record that are not testimony or examination may be labeled "argument," "decision," "colloquy," etc., to describe what is reported.(7-1-93)

**05. Volume Size -- Number of Pages.** Transcript volumes should not exceed three hundred (300) pages unless the transcript can be completed in three hundred fifty (350) pages or less. Transcript volumes and pages of all proceedings on the record, including prehearing conferences, hearings, arguments, and any other proceedings on the record, must be numbered consecutively. For example, if a prehearing conference on the record preceded a hearing, the transcript volume and page numbers of the hearing would be numbered consecutively with that of the prehearing conference. (3-16-04)

**06. Number of Copies -- Binding.** The reporter shall prepare an original and one (1) copy of the transcript for the Commission. The original of each transcript shall be filed with the Commission Secretary unbound but each volume shall be separated (if applicable). Copies of the transcript shall be fastened at the left margin in spiral or plastic-type binding, so as to open as flat as possible. (3-16-04)

**07. Compressed Transcript.** Any party may request a compressed transcript having no more than four (4) pages of regular transcript on a page. Each volume of compressed transcript shall contain no more than two hundred (200) pages unless the transcript can be completed in two hundred fifty (250) pages or less. A compressed transcript may be duplexed. The pagination shall be horizontal as follows: ( )

|          |          |
|----------|----------|
| <u>1</u> | <u>2</u> |
| <u>3</u> | <u>4</u> |

**08. Computer-Searchable Transcript.** Any party may request a computer-searchable disk of the written transcript. The disk shall be in Adobe Acrobat (PDF) or other searchable format agreed upon by the reporter and the party ordering the disk. ( )

**079. Purchase of Transcript.** Any party or other person may request and pay for a copy of a transcript or portions of the transcript from the reporter.(3-16-04)

**Rule 301:** The Commission is recommending that the title to this rule be amended to more clearly reflect the content of the rule.

**301. FAILURE TO ANSWER OR APPEAR AT HEARING – DEFAULTS (Rule 301).**

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. (7-1-93)

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