RULES OF

PRACTICE AND PROCEDURE

OF THE

LOUISIANA

PUBLIC SERVICE COMMISSION

EFFECTIVE JULY 1, 1976

AS AMENDED FEBRUARY 7, 2013

RULES OF PRACTICES AND PROCEDURES OF THE LOUISIANA PUBLIC SERVICE COMMISSION

PART I. GENERAL RULES - SEE ALSO PART XI

RULE 1: OBJECT OF RULES 1
RULE 2: SCOPE OF RULES 1
RULE 3: FILING OF DOCUMENTS 1
RULE 4: SESSIONS OF THE LOUISIANA PUBLIC SERVICE COMMISSION 2
RULE 5: COMPUTATION OF TIME 3
RULE 6: STIPULATION/SETTLEMENT AGREEMENTS 3
RULE 7: SERVICE OF PROCESS 7
RULE 8: CONDUCT AND DECORUM 8
RULE 8a: BEING RECOGNIZED AT BUSINESS MEETINGS 8

PART II. PARTIES

RULE 9: CLASSIFICATION OF PARTIES 8
RULE 10: PARTIES OF INTEREST 9
RULE 11: APPEARANCES PERSONALLY OR BY REPRESENTATIVE 9

PART III. PLEADINGS

RULE 12: CLASSIFICATION OF PLEADINGS 9
RULE 12.1: TREATMENT OF INFORMATION DESIGNATED AS TRADE SECRET, PROPRIETARY, OR CONFIDENTIAL 9
RULE 13: FORM AND CONTENT OF PLEADINGS 9
RULE 14: EXAMINATION BY THE SECRETARY 10
RULE 15: MOTIONS 11
RULE 16: AMENDMENTS 11
RULE 17: INCORPORATION BY REFERENCE OF COMMISSION RECORDS 11

PART IV. DOCKETING AND NOTICE

RULE 18: DOCKETING AND NUMBERING OF CASES 11
RULE 19: PUBLICATION OF MONTHLY BULLETIN 11
NEW DOCKETINGS AND HEARINGS 12
RULE 20: CONTESTED PROCEEDINGS 12
RULE 21: UNCONTESTED PROCEEDINGS 12
RULE 22: PERSONAL SERVICE 12

PART V. PRE-HEARING PROCEEDINGS

RULE 23: PRE-HEARING CONFERENCE 12
RULE 24: POSTPONEMENTS 13
RULE 25: JOINT HEARINGS 13

PART VI. HEARINGS

RULE 26: PLACE AND NATURE OF HEARINGS 13
RULE 27: PRESIDING OFFICER 13
RULE 28: ORDER OF PROCEDURE 14
RULE 29: REPORTERS AND TRANSCRIPTS 14
RULE 30: FORMAL EXCEPTIONS 14
RULE 31: BRIEFS 14

PART VII. EVIDENCE

RULE 32: ADMISSIBILITY IN GENERAL 15
RULE 33: SPECIAL RULES APPLICABLE TO CONTESTED OPERATING AUTHORITY CASES 15
RULE 34: EVIDENCE IN UNCONTESTED PROCEEDINGS 16
RULE 35: PREPARED TESTIMONY 16
RULE 36: LIMITATIONS ON NUMBER OF WITNESSES 16
RULE 37: EXHIBITS 16
RULE 38: OFFER OF PROOF 17
RULE 39: DEPOSITIONS 17
RULE 40: SUBPOENAS 17
RULE 41: FORM OF EXCEPTIONS AND REPLIES 17
RULE 42: ORAL ARGUMENT 18
RULE 43: REHEARING 18

PART VIII. ORDERS

RULE 44: FORM, CONTENT AND SERVICE OF ORDERS 18
RULE 45: COMPLIANCE 18
RULE 46: SHOW CAUSE ORDERS AND COMPLAINTS; CONTEMPT 18

PART IX. PROCEEDINGS INSTITUTED BY THE COMMISSION

RULE 47: PUBLIC HEARINGS ON MATTERS OF GENERAL IMPORTANCE 19
RULE 48: ADDITIONAL HEARINGS 19

PART X. MISCELLANEOUS

RULE 49: DEFINITIONS 19
RULE 50: EFFECTIVE DATE 20
RULE 51: SUSPENSION OF RULES 20
RULE 52: REFILING OF APPLICATIONS 20
RULE 53: OFFICE AND ADDRESS OF COMMISSION 20

PART XI. ADMINISTRATIVE HEARINGS DIVISION

RULE 54: ROLE AND AUTHORITY OF THE ADMINISTRATIVE HEARINGS DIVISION 20
RULE 55: AUTHORITY DELEGATED BY THE COMMISSION TO THE ADMINISTRATIVE LAW JUDGES 21
RULE 56: PROCEDURE FOR REVIEW OF RECOMMENDATIONS REGARDING FINAL DETERMINATIONS 22
RULE 57: REVIEW OF INTERLOCUTORY RULINGS 24
RULE 58, 59, 60, 61 and 62 DELETED – INCORPORATED INTO RULE 3.

PART XII. DISCOVERY

RULE 63: FORMS OF DISCOVERY PERMITTED/LIMITATIONS 25
RULE 64: FILING OF DISCOVERY REQUESTS AND RESPONSES 25
RULE 65: SERVICE OF DISCOVERY ON ALL PARTIES 25

PART XIII. ABANDONMENT OF PROCEEDINGS

RULE 66: ABANDONMENT AFTER ONE YEAR 26

PART XIV. SPECIAL PROCEDURES

RULE 67: SPECIAL PROCEDURES FOR ADJUDICATION OF A THREE HUNDRED FOOT RULE ELECTRIC UTILITY DISPUTES OVER SERVICE AREAS 26

PART XV. FEE SCHEDULE
(Not attached, Available at www.lpsc.org)

PART XVI. GENERAL ORDERS AND MINUTE ENTRIES OF THE COMMISSION
(Not attached, Available at www.lpsc.org)

3/29/89: COMMISSION INCORPORATION OF LOUISIANA OPEN MEETING LAW, LA.R.S. 42:4.1-12 ET SEQ. AND THE LOUISIANA PUBLIC RECORDS ACT, LA.R.S. 44:1-44 - ***(SEE RULE 2)(MINUTE ENTRY)***

10/22/91: APPOINTING AUTHORITY OF SECRETARY

8/31/92: TREATMENT OF INFORMATION DESIGNATED AS TRADE SECRET, PROPRIETARY, OR CONFIDENTIAL ***(SEE RULE 12.1) (SEE RULE 26)***

3/17/93: BEING RECOGNIZED AT BUSINESS MEETINGS ***(SEE RULE 8A)***

11/6/95: AMENDMENTS TO RULES OF PRACTICES AND PROCEDURES OF THE LOUISIANA PUBLIC SERVICE COMMISSION - OTHER THAN ADJUDICATORY PROCEEDINGS ***(SEE RULE 54)***

12/22/95: AMENDMENTS TO RULES OF PRACTICES AND PROCEDURES OF THE LOUISIANA PUBLIC SERVICE COMMISSION ***(SEE RULE 54)***

2/22/00: AMENDMENT TO THE RULES OF PRACTICE AND PROCEDURE OF THE LOUISIANA PUBLIC SERVICE COMMISSION ***(SEE RULE 56)***

4/04/03: AMENDMENT TO THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE ***(SEE RULE 6)***

9/15/03: RULES GOVERNING REGISTRATION OF LOBBYISTS (AMENDS GENERAL ORDER DATED 10/6/89)

11/03/05: EMERGENCY POWERS OF THE EXECUTIVE SECRETARY

1/31/06: AMENDMENT TO THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE ***(SEE RULES 3, 58, 59, 60, 61, and 62)***

2/14/06: AMENDMENT TO THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE ***(SEE RULE 56)***

10/8/10: AMENDMENT TO THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE ***(SEE RULES 34 and 43)***

7/6/12: AMENDMENT TO THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE ***(SEE RULE 33)***

PART XVII. SPECIAL ORDERS OF THE COMMISSION
(Not attached, Available at www.lpsc.org)

9/12/03: LOUISIANA PUBLIC SERVICE COMMISSION BUSINESS AND EXECUTIVE SESSIONS STATE-WIDE

9/12/03: LOUISIANA PUBLIC SERVICE COMMISSION RULES REGARDING EMPLOYMENT OF COMMISSION FAMILY MEMBERS BY REGULATED UTILITIES

3/9/09: ETHICS RULES FOR LOUISIANA PUBLIC SERVICE COMMISSION

2/10/12: AMENDMENT TO THE COMMISSION'S RULES OF PRACTICE AND PROCECURE - SPECIAL PROCEDURES FOR ADJUDICATION OF "THREE HUNDRED FOOT RULE" ELECTRICITY UTILITY DISPUTES OVER SERVICE AREAS. ***(SEE RULE 67)***

PART I GENERAL RULES

RULE 1: OBJECT OF RULES

The purpose of these Rules, which were adopted under the authority of Article IV, Section 21 of the Louisiana State Constitution of 1974, is to provide for a simple, orderly, and efficient system of procedure before the Louisiana Public Service Commission to the end that justice may be served, the public interest and welfare may be protected, and the determination of causes may not be unduly delayed. These Rules shall be liberally construed, with a view towards the purpose for which they are adopted.

RULE 2: SCOPE OF RULES

These Rules shall govern the general procedure for the institution, conduct, and determination of causes and proceedings before the Louisiana Public Service Commission. At the Commissions March 29, 1989 Open Session, it unanimously incorporated the Louisiana Open Meeting Law, La. R.S. 42:4.1 - 12 et seq. and the Louisiana Public Records Act, La. R.S.44:1 - 44 into its Rules of Practice and Procedure.

RULE 3: FILING OF DOCUMENTS

A. Generally

1. Form of Filings
    a. All such filings shall be in the form of an original and two (2) copies.
    b. If the party making the filing wishes to receive a file-stamped copy, an additional copy must be provided along with a stamped, self-addressed envelope.
    c. Documents shall be deemed filed only when actually received by the Secretary and/or Records Division, in proper form in accordance with the requirements and/or restrictions set forth in these Rules (including but not limited to Rules 13 and 18), and/or relevant commission orders, and accompanied by a filing fee, if any. (See attached Fee Schedule).
2. Initial Filings
    a. All initial filings to be instituted before the Louisiana Public Service Commission, except those instituted by the Commission itself, shall be filed with the Secretary.
    b. Initial filings may not be transmitted via facsimile.
3. Filings to be Made With the Records Division
    a. Following initial receipt and review by the Secretary of a filing which seeks to institute an adjudicatory proceeding before the Commission for which a hearing is required, the Secretary shall forward the filings to the Records Division for docketing.
    b. Notice of docketing shall be provided to all parties.
    c. After a matter is docketed with the Records Division, all subsequently filed pleadings and/or documents are to be filed directly with the Records Division at the address below:

Louisiana Public Service Commission
Records Division
602 N. Fifth Street, 12th Floor
Baton Rouge, Louisiana 70802

d. Any party filing a pleading with the Records Division shall serve a copy of the pleading upon all parties of record, including the Commission Legal Division, according to Rule 7(c).

e. The Commission shall be considered a party to every docketed proceeding without the necessity of filing intervention pleadings.

f. Filings by Facsimile

i. Any filing to be made with the Records Division that is twenty-five (25) pages long or less may be transmitted via facsimile.

ii. Filing shall be complete only upon the receipt by the party making the filing of a confirmation from the Records Division confirming the complete transmission of every page of the filing.

iii. Within five days, exclusive of legal holidays, the party filing the document shall transmit to the Records Division the original signed document, two copies, any applicable filing fee, and a facsimile transmission fee of $25.

iv. Filings made by facsimile no later than 4:30 p.m. on a business day, according to the Records Division facsimile equipment, shall be considered filed as of that day.

v. If the party fails to comply with the rules regarding filings made via facsimile, the filing shall have no force and effect.

B. Trade Secret, Proprietary and/or Confidential Documents

A party providing materials believed to be trade secret, proprietary, and/or confidential shall file this information pursuant to Commission Rule 12.1

C. Requesting Service by the Commission

Any party filing a pleading for which service by the Commission is requested, and any part requesting the issuance of subpoenas, shall identify in writing each individual to be served, or the agent for service of process for each entity to be served, along with an accurate address for service.

D. Application for Rate Increase

1. Applications for rate increases shall be deemed filed only when accompanied by sworn statements containing the applicant's case-in-chief, or when applicant's case-in-chief is presented by actual testimony.
2. Amendments to rate applications shall, if the Commission deems necessary, be treated by the Commission as a new filing and shall be subject to the same procedural requirements regarding the filing of sworn statements or taking of testimony as an initial application.

RULE 4: SESSIONS OF THE LOUISIANA PUBLIC SERVICE COMMISSION

At least one regular session customarily will be held by the Commission during each month, at such times and places as it shall designate for the purposes of public hearing, conferences, determining motions, pleas and causes, and transacting all other necessary business. Special Sessions may be held at such times and places as the Commission may designate.

The offices of the Commission shall be open from 8:00 a.m. until 4:30 p.m., Monday through Friday except official holidays and half-holidays, unless otherwise provided by rule or order of the Commission.

RULE 5: COMPUTATION OF TIME

A. Computing 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, after which the designated period of time begins to run, is not to be included. The last day of the period is to be included, unless it be a Saturday, Sunday or legal holiday or half-holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a legal holiday or half-holiday.

B. Extensions:

Unless otherwise provided, the time for filing any pleading, including a pre-hearing order, may, but shall not necessarily, be extended by order of the Secretary, upon written motion duly filed with him prior to the expiration of the applicable period of time for the filing of the same, showing that there is good cause for such extension of time and that the need therefore is not caused by the neglect, indifference or lack of diligence of the party making such motion. A copy of any such motion shall be served upon all other parties of record to the proceeding contemporaneously with the filing thereof.

RULE 6: STIPULATION/SETTLEMENT AGREEMENTS

A. Applicability

This rule applies to the stipulated settlement of all issues, or any set of issues categorized for separate hearing, in any ratemaking or adjudicatory proceeding before the Commission, with certain exceptions described in Part I, below.

B. Uncontested Proposed Stipulated Settlements

When all parties to a proceeding reach agreement with regard to all issues in the form of a Proposed Stipulated Settlement signed by all parties or their representatives ("Uncontested Stipulated Settlement"), the following procedures shall be followed:

1. *Filing*
   Upon the filing of an Uncontested Stipulated Settlement, executed by all parties, the administrative law judge ("ALJ") may continue without date any previously established procedural schedule in the proceeding.

2. *Timing of Filing.*
   Parties may file an Uncontested Stipulated Settlement at any time after the deadline has passed for filing interventions.

3. *Hearings.*
   In all cases, except as described in Part B.7, or I below, a hearing before the ALJ shall be held on the Uncontested Stipulated Settlement.

4. *Scheduling of Hearing.*
   A stipulation hearing will be scheduled by the ALJ upon the parties' filing of the following:

a. Copies of any document, testimony in affidavit form, financial analysis, or exhibit which supports the Stipulated Settlement (in rate cases, a full rate analysis and sworn statement and recommendation by the Commission Staff, as well as sworn supporting testimony by one or more representatives of the applicant, and a proposed new tariff form), and

b. A joint motion for the scheduling of a stipulation hearing.

5. *Procedure at the Stipulation Hearing*
At the hearing, the parties shall call the witnesses whose testimony was filed with the Stipulated Settlement, and shall introduce into evidence the signed Uncontested Stipulated Settlement, as well as the supporting documentation. Affidavits, in lieu of live testimony, may be submitted.

6. *Post-Hearing Report by Administrative Law Judge.*
Following the hearing, the ALJ shall forward to the Commissioners, without a recommendation on the merits, a report of the proceeding and a copy of the Uncontested Stipulated Settlement.

7. *Consideration Without Hearing.*
The Commissioners, for reason of public need, may dispense with the requirement of a stipulation hearing and consider an Uncontested Stipulated Settlement based upon the filed documentation.

C. Uncontested Proposed Partial Stipulated Settlements

When all parties to a proceeding reach agreement with regard to some, but not all, issues in the form of a Proposed Partial Stipulated Settlement signed by all parties or their representatives (an "Uncontested Proposed Partial Stipulated Settlement"), all provisions of this Rule that apply to Uncontested Proposed Stipulated Settlements shall apply except that the previously established procedural schedule referred to at Section B.1. above shall not be continued without date as to the remaining issues. A hearing on the merits shall be heard at the time and in accordance with a new procedural schedule to be set by the ALJ.

D. Contested Proposed Stipulated Settlements

When two or more non-aligned parties (including intervenors, but not interested parties), but not all parties, to a proceeding reach agreement with regard to all issues in the form of a Proposed Stipulated Settlement signed by the agreeing parties or their representatives (a "Contested Stipulated Settlement"), the agreeing parties may initiate a process culminating in the Commissioners' consideration of their proposal as follows:

1. *Initiation of the Process.*
Any two or more opposing parties to a contested proceeding before the Commission (the "Agreeing Parties") may file a Contested Stipulated Settlement and request a hearing ("Request").

2. *Contents of Request.*
The Request shall consist of the following:
   a. A joint motion by the Agreeing Parties requesting a Stipulation Hearing;
   b. The Stipulated Settlement, signed by all Agreeing Parties, attesting to their agreement with its terms;

c. Copies of any document, testimony in affidavit form, financial analysis, or exhibit which supports the Stipulated Settlement, together with a statement of how the proposed settlement is in the public interest.
d. Citations to law or jurisprudence which support the Stipulated Settlement; and
e. If the proceeding is a rate proceeding, a proposed new tariff form incorporating the Stipulated Settlement.

3. *Time for Filing Request.*
The Request may be filed at any time after the time frame permitted in the procedural schedule for general discovery has ended, but no later than 15 days prior to the hearing on the merits except upon a showing of good cause.

4. *Service of Request.*
The Request (in full) shall be served, concurrently with its filing with the Administrative Hearings Division, upon all parties of record.

5. *Effect of Filed Request on Existing Procedural Schedule.*
Upon the timely filing of a Request, the ALJ may continue without date the previously established procedural schedule.

6. *Evaluation of Confidential Information.*
Parties to the proceeding shall have an opportunity to review confidential documents involved in the settlement. If the documents are not included with the Request, they shall be made available for immediate review subject to a confidentiality agreement. Upon a showing of good cause, the ALJ may extend the time period for filing comments to allow for the examination of confidential documents.

7. *Contents of Comments.*
Comments contesting a proposed Stipulated Settlement or any portion of it shall consist of:
a. A specific listing of each element of the Stipulated Settlement which is being contested, together with the commenting party's reasons for contesting those elements;
b. Copies of any document, testimony in affidavit form, financial analysis, or exhibit which supports the commenting party's position; and
c. Citations to law or jurisprudence that support the commenting party's position.

8. *Time for Filing Comments.*
a. Comments must be filed with the Administrative Hearings Division within 30 days of the filing of the Request.
b. The comments (in full) shall be served, concurrently with their filing with the Administrative Hearings Division, on all parties of record.

9. *Waiver.*
The failure to file timely comments shall constitute a waiver of all objections to the Stipulated Settlement.

10. *Rebuttal Comments.*
a. The Agreeing Parties may file rebuttal comments to timely filed comments contesting the Stipulated Settlement.

b. Such rebuttal comments shall be filed with the Administrative Hearings Division within 7 days of the deadline for filing comments. This time period may be extended or shortened by the ALJ upon a showing of good cause.

c. The rebuttal comments (in full) shall be served, concurrently with its filing with the Administrative Hearings Division, upon all parties of record.

d. Rebuttal comments shall consist of:

   i. Copies of any document, testimony in affidavit form, financial analysis, or exhibit which rebuts the timely filed comments by other parties; and

   ii. Citations to law or jurisprudence that rebut the timely filed comments by other parties.

E. Stipulation Hearings

In scheduling hearings, the ALJ charged with the hearing shall give priority to any proposed stipulated settlement. A minimum of 10 days notice of the hearing must be sent to all parties in the proceeding, unless there is a pressing public need for expedited hearing.

1. *Uncontested Proposed Stipulated Settlements.*
When no comments contesting the proposed Contested Stipulated Settlement are filed within the time frame for doing so, it shall become an Uncontested Stipulated Settlement and the same hearing procedures shall apply as provided at Section B herein.

2. *Contested Proposed Stipulated Settlements.*
When comments contesting the proposed Contested Stipulated Settlement are filed within the time frame for doing so, the following procedures shall apply:

   a. Contested *Stipulated Settlement Hearings.*
   A hearing shall be held on all Contested Stipulated Settlements within fifteen (15) days of receiving comments. At the hearing, all parties shall introduce into evidence the testimony and documentation (including the Stipulated Settlement) previously filed into the record, and nothing more. The witnesses who provided the previously filed testimony in affidavit form shall be present at the hearing, where their direct testimony shall be limited to the testimony previously provided in affidavit form. The witnesses shall be subject to cross-examination by the other parties, followed by re-direct examination by the sponsoring parties. Parties to the proceeding who failed to file timely comments contesting the Stipulated Settlement shall not be allowed to present witnesses or evidence.

   b. Following the hearing, the ALJ shall issue a recommendation to the Commissioners with regard to the Stipulated Settlement.

F. Discovery/Admissibility of Settlement Discussions, Admissions, or Concessions.

Discovery shall not be permitted during the Stipulated Settlement process, except by permission of the ALJ upon a showing of good cause. Settlement discussions, admissions or concessions are not subject to discovery and are not admissible in evidence, except by agreement of all parties.

G. Non-Approval of Proposed Stipulated Settlement.

In the event the Commission does not approve a Stipulated Settlement, the ALJ shall schedule a status conference to establish a procedural schedule leading to a hearing on the merits.

H. Burden of Proof With Regard to Proposed Stipulated Settlements.

The parties proposing a stipulated settlement shall have the burden of proving that the Stipulated Settlement is reasonable in light of the record, consistent with the law, and not contrary to the public interest.

I. Exceptions.

1. In the following instances, the ALJ may, at his or her discretion, dispense with the procedures and requirements outlined above and, instead, permit the parties to present, at the hearing on the merits, a proposed stipulation as to guilt or innocence and as to an appropriate penalty or other outcome:

    a. In proceedings instituted as a result of Commission Staff allegations of a motor carrier's violation of Commission regulations or other applicable law, when all parties to the proceeding are in agreement as to the proposed stipulation.
    b. In proceedings instituted as a result of Commission Staff allegations of a telecommunications company's violation of Commission regulations or other applicable law, when all parties to the proceeding are in agreement as to the proposed stipulation.
    c. In other like proceedings, or when directed to do so by vote of the Commission.
2. Notwithstanding any of the above provisions in this Rule, the Commission may, on its own motion, vote to waive any and/or all of the requirements of this Rule and ratify and/or approve a settlement if it finds it to be in the public interest.

RULE 7: SERVICE

A. BY PUBLICATION:

Where published notice is permitted or prescribed by these Rules or by statute, it may be made by incorporating it in the printed memorandum of notices monthly circulated by the Secretary to those persons entitled to receive such notices. The Official Bulletin of the Commission shall, in those sections designated as official, constitute such notice.

B. BY MAIL OR SHERIFF:

Where service other than by publication is permitted or required under these Rules, or where published notice is unofficial and so noted in the publication, the Secretary shall mail the same, certified or registered mail, to the last known place of address of the person entitled to receive such notice; in proceedings wherein criminal penalties may be assessed, a duly authorized employee of the Commission or the Sheriff of the parish of the domicile of the party served may be directed to make personal service and file a return thereon; provided that any party shown to have received actual notice which is timely through any of the above methods of service shall not be permitted to rely upon lack of service as a defense or as grounds for continuance to any proceedings, unless it be shown that such request for continuance is not due to the fault of the applicant.

C. SERVICE OF PLEADINGS:

A copy of any protest, reply, answer, motion or other pleading filed by any party in any proceeding subsequent to the institution thereof shall be mailed or otherwise delivered by the party filing the same to every other known party of record, together with a statement of cause for interest in the proceeding and, to the degree possible, the names of witnesses to be called in the event of a public hearing, and the anticipated time of that party's presentation. If any party has appeared in the proceeding by attorney or other representative authorized under these Rules to make appearances, service shall be made upon such attorney or other representative. The willful failure of any party to make such service shall be sufficient grounds for the entry of an order by the Commission, striking the protest, reply, answer, motion or other pleading from the record.

D. CERTIFICATE OF SERVICE:

A certificate by the party, attorney or representative who files a pleading, stating that it has been served on the other parties, shall be prima facie evidence of such service. The following form of certificate will be sufficient in this connection:

I hereby certify that I have this _____ day of _____, 19___, served copies of the foregoing pleading upon all other known parties of this proceeding, by (here state the manner of service).

_____
Signature

RULE 8: CONDUCT AND DECORUM.

Every party, witness, attorney or other representative shall comport himself in all proceedings with proper dignity, courtesy and respect for the Commission, the Secretary, and all other parties. Disorderly conduct will not be tolerated. Attorneys and other representatives of parties shall observe and practice the standards of ethical behavior prescribed for attorneys at law by the Louisiana Bar Association. Any party, witness, attorney or other representative may be excluded by the Commission from any hearing for such period and upon such conditions as are just for violation of this rule, or may be subject to such other just, reasonable, and lawful disciplinary action as the Commission may prescribe.

RULE 8A: BEING RECOGNIZED AT BUSINESS MEETINGS

Persons in the audience having an interest in a business session item shall not approach the podium or speaker's table until requested to do so.

PART II PARTIES

RULE 9: CLASSIFICATION OF PARTIES.

Parties to proceedings before the Louisiana Public Service Commission are applicants, protestants, petitioners, complainants, respondents and intervenors. Regardless of errors in their designation of themselves in their pleadings, the Commission may align parties in accordance with their interest in the proceedings.

RULE 10: PARTIES IN INTEREST.

Any party actually in interest may appear in any proceeding before the Louisiana Public Service Commission. All appearances shall be subject to a motion to strike upon a showing that the party has no justiciable or administratively cognizable interest in the proceeding. As applied to proceedings under R.S. 45:162 et. seq. involving operating authority, a party in interest is any carrier or shipper operating or shipping over a route within the territory or serving any point proposed to be served by any applicant, and transporting any of the same class or classes of commodities, or persons, proposed to be transported by the applicant. Unless otherwise provided by law, any public official, agency or department of the State of Louisiana or any of its political subdivisions, and every civic and trade organization shall be permitted to appear in any proceeding whether as a formal intervenor or otherwise, and present any relevant and proper testimony and evidence bearing upon the issues involved in the particular proceeding.

RULE 11: APPEARANCES PERSONALLY OR BY REPRESENTATIVE.

Any party may appear and be represented by an attorney at law authorized to practice law before the highest court of any State. A natural person may appear in his own behalf, or through a bona fide full-time employee. A corporation, partnership or association may appear and be represented by any bona fide officer, partner, full-time employee, or other person if authorized to so appear by the Commission. In all proceedings for the determination, establishment, interpretation or enforcement of tariffs, rates, charges, or any classification, rule or regulation appertaining thereto, any party may appear and be represented by any person who is licensed to practice before the highest court of any State, or by any person who has regularly represented clients before the Louisiana Public Service Commission for at least five (5) years prior to the effective date of these rules.

PART III PLEADINGS

RULE 12: CLASSIFICATION OF PLEADINGS

Pleadings filed before the Louisiana Public Service Commission shall be applications, protests, petitions, complaints, answers, prehearing orders, replies, and motions. Regardless of any error in the designation of a pleading by the pleader, it shall be accorded its true status in the proceeding in which it is filed.

RULE 12.1: TREATMENT OF INFORMATION DESIGNATED AS TRADE SECRET, PROPRIETARY, OR CONFIDENTIAL

Upon request of a regulated entity or other person, any records received by the Commission which are shown by the company or other person and found by the Commission to be trade secret, proprietary, or confidential information, and not necessary to be disclosed to the public, shall be kept confidential and shall be exempt from public disclosure.

RULE 13: FORM AND CONTENT OF PLEADINGS

A. TYPEWRITTEN OR PRINTED:

All pleadings filed in any proceeding shall be typewritten or printed. If typewritten, the impression

shall be on one side of the paper, and lines shall be double-spaced, except that long quotations, schedules of data and tariffs may be single-spaced, and indented. Mimeographed, multigraphed, hectographed, photostated or planographed papers and the like will be accepted as typewritten. If printed, the paper shall be unglazed, and the printing shall be in clear type, adequately leaded.

B. SIZE OF PAPERS:

All papers, except exhibits, shall be cut or folded so as not to exceed a width of 8-1/2 inches and a length of 14 inches, and shall have inside margins not less than one inch wide. Whenever practical, all exhibits of a documentary character shall conform to said requirements of size and margin.

C. SIGNATURE AND ADDRESS:

The original copy of every pleading shall be signed in ink by the party filing the paper, or by the officer, partner, attorney or other representative who appears for such party. Pleadings shall contain the address and telephone number of the party filing the paper or, if he is represented by an attorney or other representative, the name, business address and telephone number of such attorney or other representative.

D. OTHER REQUIREMENTS:

All pleadings shall contain:

1) The name of the party seeking to bring about or prevent action by the Commission or other parties.
2) The names of all other known parties in interest.
3) A concise statement of the ultimate facts relied upon by the pleader.
4) A prayer stating the type of relief, action or order desired by the pleader.
5) A list of witnesses who may be called in the event of an oral hearing, and the anticipated time of presentation of the case.
6) Any other matter required by statute or rule.
7) A certificate of service, where service is required by Rule 7(C).

E. In addition to the other requirements contained in the Rule, if the pleading, application or petition seeks an increase in rates or tariffs, it shall not be considered effectively filed unless it shall have appended thereto all of the sworn testimony, affidavits and exhibits upon which the company will rely in support of its request for additional revenue together with a proposed schedule of rates or tariffs designated to produce the additional revenue requested.

RULE 14: EXAMINATION BY THE SECRETARY

Upon the filing of any pleading with the Secretary, he shall forthwith examine the same and determine its sufficiency under these Rules. If he finds that it does not comply in all material respects with these Rules, he may return it to the person who filed it, along with his statement of the reasons for rejecting same. The person who filed such pleading shall thereafter have the right to file a corrected pleading: Provided, that the filing of such corrected pleading shall not be permitted to delay any hearing unless the Secretary shall determine that such delay is necessary in order to prevent injustice or to protect the public interest and welfare, and provided further that the failure of the Secretary to return such pleading shall not constitute a waiver by the Commission or any other proper party to object at a later time to the sufficiency of the pleading. Any determination made by the Secretary under this rule shall be subject to review by the Commission upon written request by the party affected.

RULE 15: MOTIONS

Every motion relating to a pending proceeding shall, unless made during a hearing, be written, and shall set forth the relief sought and the specific reasons and grounds therefore. If based upon matters which do not appear of record, it shall be supported by affidavit. Any motion not made during a hearing shall be filed with the Secretary, who shall bring it before the Commission at the earliest practicable time.

RULE 16: AMENDMENTS

Any pleading may be amended at any time upon motion, provided that the application, complaint or petition upon which notice has been issued shall not be amended so as to broaden the scope thereof. A protestant or intervenor may at any time adopt by amendment the rates, rules or regulations proposed in the application or petition.

RULE 17: INCORPORATION BY REFERENCE OF COMMISSION RECORDS

Any pleading may adopt and incorporate, by specific reference thereto, any part of any document or entry in the official files and records of the Commission. Testimony, exhibits, and other matters of a like nature are excepted from this Rule, unless with specific approval of the Commission, and this Rule shall not relieve any applicant of the necessity of alleging and providing in detail, where required, the facts showing wherein existing transportation facilities are inadequate.

PART IV. DOCKETING AND NOTICE

RULE 18: DOCKETING AND NUMBERING OF CASES

When the Secretary shall have received an application or other pleading which is intended to institute a proceeding before the Louisiana Public Service Commission, and shall have determined that it complies with these Rules as to form and content, he shall forthwith docket the same as a pending proceeding, and serve notice thereon under Rules 7 and 19. The Secretary may, at any time, docket a case of general public interest in accordance with Rule 49.

RULE 19: PUBLICATION OF MONTHLY BULLETIN; NEW DOCKETINGS AND HEARINGS

The Secretary may publish monthly, or more often if necessary, a notice of applications or other pleadings by which proceedings shall have been instituted before the Louisiana Public Service Commission since the last previous publication of notice. Notice for any proceeding may also be served specially under Rule 7. Said notice shall set out the name and address of the applicant or other party filing the same, the docket number, and the name and address of his attorney or other representative, shall contain a concise statement of the action sought in the proceeding and shall state that every person who desires to appear in opposition must file a notice of protest with the Secretary within twenty-five (25) days after the date of publication of said notice, or within such other period of time as might be specified, with service of a copy of said notice of protest upon the party who instituted the proceeding, and that if no notice of protest shall have been received by the Secretary within said twenty-five (25) day period or other specified period, the

proceeding will be processed and determined upon an uncontested docket, provided that the Commission shall have the right, power and duty to inquire into the public interest in any proceeding whether contested or uncontested. The date of mailing of a special notice, or date of mailing of the publication of all published notices, shall be the date after which the time period commences to run. Said Bulletin may, but shall not necessarily, also contain official notice of the dates set for hearing of previously docketed matters, in which event no further notice shall be required. Except in matters involving contempt, a violation of a rule or order of the Commission, a state law, or in which there is a pressing public need, hearings shall be announced at least 10 days in advance.

RULE 20: CONTESTED PROCEEDINGS

When a notice of protest is filed with the Secretary within twenty-five (25) days after the mailing or publication of notice or within such other specified period of time, as provided in Rule 19, the Secretary shall assign such case to the contested docket, and notify the parties of the time and place of hearing.

RULE 21: UNCONTESTED PROCEEDINGS

Where no notice of protest has been timely received by the Secretary after the mailing of special notice or publication of published notice, as provided in Rule 19, the Secretary shall assign such case to the uncontested docket. All cases on the uncontested docket shall be processed as expeditiously as practicable. Nothing in this Rule shall relieve any party of the burden of proof imposed by law.

RULE 22: PERSONAL SERVICE

All notices of which personal service may be required by statute shall be addressed to the person entitled thereto, and shall set forth the names of all other parties, the nature and subject matter of the proceeding, the time and place of hearing, and any other matter required by law, and may be made by the sheriff of the parish of the party served, or by a duly authorized employee or official of the Commission, who shall make a return thereon.

PART V PRE-HEARING PROCEEDINGS

RULE 23: PRE-HEARING CONFERENCE

A. Upon written notice by the Secretary in any proceeding, the parties or their attorneys or other representatives may be directed to meet and confer together by telephone or otherwise, before a specified time, prior to the hearing, and prior to the setting of a date for a hearing, for the purpose of formulating issues and considering:

1) The simplification of issues;
2) The possibility of making admissions of certain averments of fact or stipulations concerning the use by either or both parties of matters of public record, such as annual reports and the like, to the end of avoiding the unnecessary introduction of proof;
3) The simplification of procedures at the hearing;
4) The limitation, where possible, of the number of witnesses;
5) The time required for presentation;
6) Such other matters as may aid in the simplification of the proceedings and the disposition of the matters in controversy.

B. Action taken at the conference shall be recorded in an appropriate statement by the parties, to be filed with the Secretary before the date specified. No matter for which a pre-hearing conference has been ordered by the Commission shall be set for hearing unless the pre-hearing statement has been timely filed, unless the failure to do so is for good cause shown in writing. Applicants and petitions shall bear the responsibility for filing the pre-hearing statement, and the failure of any party to cooperate in the preparation of it shall result in his dismissal from the proceeding. In the event of disagreement over the terms of the pre-hearing statement, any party may file a separate statement setting forth the grounds for such disagreement.

RULE 24: POSTPONEMENTS

A motion for postponement shall be only for good cause shown and, if possible, in writing, shall be filed with the Secretary prior to the date set for hearing, and shall set forth under oath the specific grounds upon which it is sought. Once an application has actually proceeded to a hearing, pursuant to the notice issued thereon, no postponement shall be granted without the consent of the Commission.

RULE 25: JOINT HEARINGS

A motion for consolidation of two or more applications, petitions or other proceedings, if made prior to hearing, shall be in writing, signed by the movant, his attorney or representative, and filed with the Secretary prior to the date set for hearing. No two or more applications, petitions, complaints or other proceedings shall be consolidated or heard jointly without the affirmative consent of all parties to all of such proceedings, and by consent of the Commission, unless the Commission shall find that the two or more applications, petitions, complaints or other proceedings, involve common questions of law and fact, and shall further find that separate hearings would result in unwarranted expense or delay or substantial injustice.

PART VI HEARINGS

RULE 26: PLACE AND NATURE OF HEARINGS

(Amended by General Order dated August 31, 1992) All official hearings conducted in any proceeding shall be open to the public, unless the Commission decides that a closed hearing is necessary to protect information that is exempt from public disclosure under the Public Records Act, R.S. '44:1 et seq. A hearing shall remain closed only for the period of time necessary to consider the confidential information. All hearings shall be held in Baton Rouge, Louisiana, unless the Commission shall designate another place of hearing.

RULE 27: PRESIDING OFFICER

A. Except as otherwise provided, hearings will be conducted by at least three of the Commissioners. The presiding Commissioner or his delegate shall have authority to administer oaths, and the Commissioners may examine witnesses and rule upon the admissibility of evidence and amendments to pleadings. The Commission shall have the authority to recess any hearing from day to day.

B. If the presiding Commissioner or Hearing Officer dies, becomes disabled or withdraws or is removed from employment of the case at any time before the final decision thereof, the Commission may appoint another

presiding Commissioner or Hearing Officer, who may perform any function remaining to be performed without the necessity of repeating any proceedings theretofore had in the case. In the event the entire Commission is acting as examiner, then the presence of one Commissioner presiding shall be sufficient to continue hearings.

C. The Commission may, at its discretion, appoint a Hearing Examiner or Examiners to conduct public hearings for the purpose of gathering information and compiling a record upon any issue of fact or law. Such record shall be for the purpose of permitting the Commission to make a decision on the basis thereof. The Hearing Officer so appointed shall have full authority to make all rulings on jurisdiction or the admissibility of evidence subject to the right of all parties to include in the record any objection to said ruling, and subject to review by the Commission.

RULE 28: ORDER OF PROCEDURE

The presiding Commissioner shall direct all parties to enter their appearances on the record. In all proceedings the petitioner, applicant or complainant, respectively, customarily shall open. Where several proceedings are heard on a consolidated record, the Commissioner or presiding official shall designate who shall open and close. The Commission in all cases shall determine at what stage intervenors shall be permitted to offer evidence. After all parties have completed the presentation of their evidence and before the issuance of a report and recommended order, the Commission may call upon any party or the staff of the Commission for further material or relevant evidence upon any issue, which, in the discretion of the Commission, may be presented at further public hearing after notice to all parties of record.

RULE 29: REPORTERS AND TRANSCRIPTS

The Secretary shall designate an official reporter to make and transcribe a stenographic record of the hearing in each contested proceeding, and shall provide for such copies of the transcript as may be required for the purposes of the Commission. No copies of the transcript will be furnished to the parties by the Commission, but copies may be obtained from the official reporter upon payment to the Commission of appropriate charges. Suggested corrections to the transcript of the record may be offered within ten (10) days after the transcript is filed in the proceeding, unless the Commission shall permit suggested corrections to be offered thereafter. Suggested corrections are not objected to, the Commissioners may direct the corrections to be made and the manner of making them. In case the parties disagree on suggested corrections, they may be heard by the Commission which shall then determine the manner in which the record shall be changed, if at all.

RULE 30: FORMAL EXCEPTIONS

Formal exceptions to rulings of the presiding Commissioner during a hearing shall be unnecessary. It shall be sufficient that the party at the time any ruling is made or sought shall make known to the presiding Commissioner the action which he desires.

RULE 31: BRIEFS

Briefs shall be filed only when requested or permitted by the Commission. They shall conform, as near as may be, to the rules herein provided for form of pleadings. The points involved shall be concisely stated, the evidence in support of each point shall be briefly summarized, and the argument and authorities shall be organized and directed to each point in a concise and logical manner.

PART VII EVIDENCE

RULE 32: ADMISSIBILITY IN GENERAL

Any evidence which would be admissible under the general statutes of the State of Louisiana, or under the rules of evidence governing proceedings in matters not involving a trial by jury in the Courts of the State of Louisiana, shall be admissible before the Louisiana Public Service Commission. Other evidence may be admitted by the Commission if it is at all probative and relevant provided the substantive rights of all parties are protected. The rules of evidence shall be applied liberally in any proceeding to the end that all needful and proper evidence shall be conveniently, inexpensively and speedily heard while preserving the substantive rights of the parties to the proceeding.

RULE 33: SPECIAL RULES APPLICABLE TO CONTESTED OPERATING AUTHORITY CASES

A. Burden of Proof

An applicant applying for a Contract Carrier permit of waste shall prove that the grant of authority is in the public interest. An applicant applying for a Common Carrier Certificate of waste or seeking an expansion of existing waste authority shall prove public convenience and necessity in said proceeding by proving:

1) A public need for the applicant's service and that the grant of authority is in the public interest;
2) The mere addition of competition is not sufficient to defeat an application for authority; however, an existing LPSC certificated or permitted carrier(s) may offer evidence that the proposed grant of authority will have a substantial and detrimental impact upon its capital investment and upon such a finding by the Hearing Examiner and/or A L J the application can be denied;
3) The failure to present anecdotal evidence of service failures is not grounds for the denial of the application.

B. Repudiation of the Pan American Test and Its Progeny

The Commission has found that public convenience and necessity is "dynamic and flexible" and that the test established in *Pan-American Bus Lines Operations*, 1 M.C.C. 190 (1936) is no longer applicable to the trucking industry as it exists today and to the needs of the shippers for the transportation and disposal of waste in Louisiana. Therefore, the test for evaluating and proving public convenience and necessity found in *Pan American* and subsequently followed by the Louisiana Supreme Court in *Matlack, Inc. v. LPSC*, 622 So.2d 640 (La. 1993) and its progeny is hereby rejected.

C. Discovery

Any party may conduct discovery regarding any issue that is relevant to the subject matter of the docketed proceeding, as long as the requested information is not privileged. The scope of discovery includes, but is not limited to, all information related to any books, documents, or other tangible items, and the identity and location of any person having knowledge of any discoverable information. A party shall not object to any discovery request if the information sought is reasonably calculated to lead to the discovery of evidence that would be admissible at a hearing.

D. Trial Depositions

Any deposition of any witness, including a deposition of a party, which was duly noticed and all parties were provided an opportunity to cross examine the witness, shall be admitted into evidence in lieu of live testimony at a hearing, if introduced by any party.

E. Fitness

In addition to proving public convenience and necessity the applicant shall provide proof of its fitness to operate by satisfying the following requirements:

1) All insurance requirements of the commission;
2) The applicant has the financial ability to operate all transportation functions authorized by the applied for authority;
3) Applicant has obtained all of the necessary permits required by any and all other state and federal agencies for the transportation and disposal of waste;
4) Applicant has adequate equipment and man power for hauling and disposal of waste.
5) Applicant and its employees have been adequately trained in the safe hauling and disposal of waste.

The provisions of this rule are applicable to all applications for Common Carrier Certificate and Contract Carrier Permits of waste and all applications for expansion of existing waste authority, including those applications which are presently pending before the Commission but have not yet gone to hearing on the merits.

RULE 34: EVIDENCE IN UNCONTESTED PROCEEDINGS

In any uncontested proceeding, the Commissioner shall receive, without regard to the legal rules of admissibility, any evidence of a form and character which would ordinarily be relied upon by a prudent person in an ordinary business transaction, including, without limitation, affidavits, documents and other forms of hearsay testimony deemed by him to be reliable.

In an uncontested application for waste authority, the burden of proof on the issue of public convenience and necessity may be met through the testimony of the applicant, if he/she/it is knowledgeable about the transportation services available, the needs of the shipping public and the capability and fitness of the applicant and need not be supported by shipper affidavits.

RULE 35: PREPARED TESTIMONY

In all proceedings, with leave of the Commission, and after service of copies upon all parties of record at such time as may be designated by the Secretary or a majority of the Commissioners, the prepared testimony of a witness upon direct examination, either in narrative or question and answer form, may be incorporated in the record as if read, or received as an exhibit, upon the witness's being sworn and identifying the same. Such witness shall be subject to cross examination and the prepared testimony shall be subject to a motion to strike in whole or in parts.

RULE 36: LIMITATIONS ON NUMBER OF WITNESSES

The Commission shall have the right in any proceeding to limit the number of witnesses whose testimony is merely cumulative.

RULE 37: EXHIBITS

A. FORM:

Exhibits of documentary character shall be of such size as not unduly to encumber the files and records of the Commission. Wherever practicable, the sheets of each exhibit shall be not more than eight and one-half inches by fourteen inches in size and numbered, and there shall be a brief statement on the first sheet of the exhibit of what the exhibit purports to show. Exhibits shall be limited to facts material and relevant to the issues in a particular proceeding.

B. TENDER AND SERVICE:

The original of each exhibit offered shall be tendered to the Secretary for identification; five copies shall be furnished the presiding Commissioners, one copy each to the Secretary and Counsel for the Commission, and one copy to each other party of record or his attorney or representative.

C. EXCLUDED EXHIBITS:

In the event an exhibit has been identified, objected to and excluded, the presiding Commissioners shall determine whether or not the party offering the exhibit withdraws the offer, and if so, permit the return of the exhibit to him. If the excluded exhibit is not withdrawn, it shall be given an exhibit number for identification, shall be endorsed by the Examiner with his ruling, and shall be included in the record, for the purpose only of preserving the exception.

D. AFTER HEARING:

Unless specifically directed by the Commission, no exhibit will be permitted to be filed in any proceeding after the conclusion of the hearing.

RULE 38: OFFER OF PROOF

When testimony is excluded by ruling of the Commissioners, the party offering such evidence may be permitted to make an offer of proof by dictating or submitting in writing the substance of the proposed testimony, prior to the conclusion of the hearing, and such offer of proof shall be sufficient to preserve the point for review by the Commission or on appeal. Any Commissioner may ask such questions of the witness as he deems necessary to satisfy himself that the witness would testify as represented in the offer of proof. An alleged error in sustaining an objection to questions asked on cross-examination may be preserved without making an offer of proof.

RULE 39: DEPOSITIONS

The taking of depositions in any proceeding shall be permitted by consent of the Commission and shall be governed by the general law applicable thereto.

RULE 40: SUBPOENAS

A. Subpoenas for the attendance of witnesses from any place in the State of Louisiana, or for the production of books, papers, accounts or documents at a hearing in a pending proceeding, may be

issued by the Commission upon its own motion, or upon the written motion of a party showing that there is good cause for the issuance of same.

B. Motions for subpoenas to compel the production of books, papers, accounts or documents shall be verified and shall specify as nearly as may be possible, the books, papers, accounts or documents desired and the material and relevant facts to be proved by them. No such subpoena shall be issued unless the Secretary of the Commission shall determine that the matter sought is relevant material and necessary and that the production of such books, papers, accounts or documents will not result in unnecessary harassment, imposition, or undue inconvenience or expense to the party to be required to produce the same. No subpoena shall issue for material alleged to be of a trade secret or confidential nature unless it be shown after hearing of arguments on the same that no other alternative, such as a protective order, will accomplish a result consistent with the interests of all parties and the public.

RULE 41: FORM OF EXCEPTIONS AND REPLIES

Exceptions and replies shall conform as near as may be to the Rules herein provided for form of pleadings. The specific exceptions shall be concisely stated. The evidence relied upon shall be pointed out with particularity, and such evidence and the argument shall be grouped under the exceptions to which they relate.

RULE 42: ORAL ARGUMENT

Any party may request oral argument prior to the final determination of any proceeding, but oral argument shall be allowed only in the sound discretion of the Commission. A request for oral argument may be incorporated in the exceptions, reply to exceptions, petition for reconsideration or in a separate pleading.

RULE 43: REHEARING

Where the Commission concludes that substantial errors of procedure or the exclusion of evidence have so affected the record as to render it impracticable to determine the case justly and fairly upon the record, it may order a rehearing on its own motion; it may also order a rehearing on motion of any party provided said motion is received within ten (10) days of the mailing of the order, rule, or other action complained of. The granting of a motion or setting of a matter for rehearing shall suspend the operation of the rule or order in question unless otherwise provided by the Commission. Otherwise, the rule or order complained of shall be suspended with the filing of an appropriate motion to rehear until the motion to rehear is denied; provided that, any order or rule of the Commission which specifically sets a date for the effectiveness of such shall not be suspended by the filing of a motion to rehear. Where no motion to rehear is timely filed, orders shall become effective ten (10) days after issuance.

A Commission Order granting waste authority is effective immediately upon issuance and a Petition for Rehearing is not allowed when the Order was issued upon a unanimous vote of the Commission.

PART VIII ORDERS

RULE 44: FORM, CONTENT AND SERVICE OF ORDERS

All orders of the Commission shall be in writing and shall be signed by at least three Commissioners. Abstinences shall be regarded as total nonparticipation by the abstaining Commissioner or Commissioners, except where an abstention deadlocks the participatory vote, in which case an abstention shall be taken as a denial of the relief sought. They may incorporate such findings of fact as the record justifies, either in the body of the order or by reference to the official record. A copy of each order shall be served forthwith upon all parties to the proceeding by the Secretary. All orders shall go into effect ten (10) days after mailing thereof, unless otherwise provided, or unless a motion for rehearing is filed timely.

RULE 45: COMPLIANCE

All recipients of orders authorizing issuance of certificates or permits for operations as motor carriers shall have thirty (30) days in which to comply with its conditions. These conditions are the filing of insurance contracts, tariffs or other documents, payment of fees due as shall be set forth in a letter addressed by the Commission to the person receiving such grant prior to issuance of the authority. Extensions of time shall not be granted except for good cause shown. Such orders authorizing a certificate or permit may be revoked by order of the Commission without public hearing upon ten (10) days notice to the recipient for failure to fully comply with the conditions specified within the time allowed. In each of the above, time allowed shall date from date of communication addressed to the recipient of the grant.

RULE 46: SHOW CAUSE ORDERS AND COMPLAINTS; CONTEMPT

The Commission, either on its own motion or upon receipt of sufficient written complaints, may, in its sound discretion, at any time after legal notice to all interested parties, cite any person operating under its jurisdiction to appear before it in a public hearing and require him or it to show cause why his or its operating authority should not be revoked, suspended or amended, or other action available to the Commission be taken, including contempt, for failure to comply with any applicable statute, order or the rules, rates, regulations or general orders of the Commission. All hearings in such proceedings shall be conducted in accordance with the provisions of these Rules; provided that in any contempt proceeding, or other proceeding where in the public interest may be seriously and adversely affected, or service to the public discontinued, the Commission may issue on its own motion a restraining order for purposes of protecting the public interest until the matter may be orderly heard and a decision rendered thereon.

PART IX. PROCEEDINGS INSTITUTED BY THE COMMISSION

RULE 47: PUBLIC HEARINGS ON MATTERS OF GENERAL IMPORTANCE

The Commission may, in those instances wherein it deems a public hearing to be appropriate, convenient and necessary in the interest of the public, or where information has been brought to the attention of the Commission, issue notice to all interested parties and the public generally, and to all public officials required by law to receive notice, and thereafter conduct formal and public hearings with reference to any matter affecting the public in connection with its administration of the laws of the State of Louisiana or over which the Commission may have jurisdiction, and as a result of such public hearings enter such orders, rules and regulations as it finds may be lawful, just and appropriate in the premises. Such hearing shall be conducted in any manner which the Commission deems appropriate, and the Commission shall, at such

hearing, receive such evidence as it deems pertinent and helpful, without regard to formal rules of evidence. This rule shall not limit the authority of the Commission to issue general orders and regulation without notice and hearing where the Commission is authorized by law to act in such manner.

RULE 48: ADDITIONAL HEARINGS

Wherever the Commission shall have issued a rule, regulation, decision or general order of general application, without notice and hearing, any carrier or other person, firm or corporation in interest may file a complaint against such rule, regulation, decision or general order, within twenty-five (25) days of publication and notice thereof either under Rule 7 or Rule 19, in writing. Five copies thereof shall be filed with the Secretary. Thereupon, if the Commission deems a hearing to be warranted, the Secretary shall serve those parties, whom he finds to be interested in the proceeding, with notice of the filing of the complaint and of the time and place of hearing. Such a hearing shall be conducted in any manner which the Commission deems appropriate, and the Commission shall, at such hearing, receive such evidence as it deems pertinent and helpful, without regard to formal rules of evidence.

PART X MISCELLANEOUS

RULE 49: DEFINITIONS

As used in these Rules, the term Commission applies to the Louisiana Public Service Commission; the term Secretary applies to the Secretary of the Louisiana Public Service Commission; the term Apresiding Commissioner means the Chairman of the Commission or any person appointed by the Chairman to conduct hearings; and statute means any provision of the Louisiana Revised Civil Statutes, as amended. Any act or function herein assigned to the Secretary may be delegated to the Assistant Secretary.

RULE 50: EFFECTIVE DATE.

These Rules shall take effect upon the expiration of thirty (30) days after their adoption and publication by the Commission. They govern all proceedings filed after they take effect; and they also govern all proceedings then pending, except to the extent that the Secretary shall determine that their application in a particular pending proceeding would not be feasible or would work injustice, in which event the former procedure applies.

RULE 51: SUSPENSION OF RULES.

In its sound discretion, the Commission may suspend the operation of these Rules or modify them instanter, may authorize temporary rates or, to the extent authorized by law, may grant temporary operating authority, or temporary modification or extension of existing authority, after such proceedings and upon such conditions as it finds to be just and practicable.

RULE 52: REFILING OF APPLICATIONS.

When any application for a Certificate of Public Convenience and Necessity, or for a permit as a contract carrier by motor vehicle, has been heard by the Commission and withdrawn or denied, the Commission will not entertain further application from the same applicant covering identical or similar routes, schedules and/or service until the expiration of six months from the date of such denial.

RULE 53: OFFICE AND ADDRESS OF COMMISSION.

Pleadings and other papers required to be filed with the Commission may be transmitted by mail or express, or otherwise delivered, but must be received for filing at its office in Baton Rouge, Louisiana, within the time limit, if any, for such filing.

PART XI. ADMINISTRATIVE HEARINGS DIVISION

PREAMBLE:

To assist the Commission in fulfilling its adjudicatory functions, and in order to provide for a fair and orderly procedure for the docketing and hearing of cases before the Commission, there is established by this Part an Administrative Hearings Division within the Commission, with functions and responsibilities as described herein. To the extent any Rule within this section conflicts with provisions elsewhere in the Rules of Practice and Procedure or in previously issued Orders of the Commission addressing procedural matters, the Rule within this Part shall govern.

RULE 54: ROLE AND AUTHORITY OF THE ADMINISTRATIVE HEARINGS DIVISION

The Administrative Hearings Division shall conduct hearings and make necessary recommendations and rulings in all matters invoking the adjudicatory jurisdiction of the Commission for which a hearing is required. The Administrative Hearings Division may also be called upon to assist the Commission in conducting hearings in matters invoking the legislative or executive jurisdiction of the Commission. In ratemaking proceedings the Executive Secretary shall certify all disputed adjudicative facts or other issues rendering it appropriate for the Commission to hold an evidentiary hearing to the Administrative Hearings Division for hearing.

The Administrative Hearings Division shall consist of administrative law judges, including any person designated as an administrative law judge, ad hoc, by the Executive Secretary and such support staff as are assigned to that division.

RULE 55: AUTHORITY DELEGATED BY THE COMMISSION TO THE ADMINISTRATIVE LAW JUDGES.

In conducting adjudications the administrative law judge shall have the authority to:

(a) Administer oaths.
(b) Issue subpoenas for the attendance of witnesses at depositions and hearings.
(c) Issue subpoenas for the production of documents and other evidence at depositions and hearings.
(d) Enforce subpoenas whenever any person summoned neglects or refuses to obey such summons, or to produce documents or other evidence, or to give testimony, as required.
(e) Schedule status conferences and prehearing conferences for the purpose of defining issues, setting hearing dates and prehearing deadlines, and for addressing such matters as the administrative law judge deems appropriate.
(f) Schedule and regulate the course of hearings, maintain decorum, and exclude hearings any person engaging in contemptuous conduct or otherwise disrupting the proceedings.
(g) Grant filing extensions and hearing continuances.

(h) Compel discovery and impose sanctions for failure to comply with discovery rules and orders.
(I) Examine witnesses.
(j) Make evidentiary rulings, including the qualification of expert witnesses.
(k) Accept testimony and exhibits into evidence.
(l) Take official notice of (1) proceedings, determinations, orders, or other actions before or by the Commission; (2) judicially cognizable facts not subject to reasonable dispute in that they are generally known within the jurisdiction of the Commission or capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned; and (3) generally recognized technical or scientific facts within the Commission's specialized knowledge. Parties shall be provided reasonable notice either before or during the hearing of the material noticed, including any staff memoranda or data, and they shall afforded an opportunity to contest the material so noticed.
(m) Direct the presentation or submission into the record of evidence or testimony not otherwise presented or submitted by any party to the proceeding, subject to objection by any party.
(n) Require the filing of memoranda of law and the presentation of oral argument with respect to any question of law or application of law to facts upon which a ruling is required.
(o) Require the filing of proposed findings of fact and conclusions of law.
(p) Receive offers of proof.
(q) Submit written recommendations to the Commissioners concerning all final determinations in proceedings, including determinations on the merits and determinations on exceptions and motions which result in the involuntary dismissal of a proceeding before the Commission.
(r) Render interlocutory rulings upon all motions, exceptions, and other preliminary matters filed by the parties.
(s) Prepare orders.

RULE 56: PROCEDURE FOR REVIEW OF RECOMMENDATIONS REGARDING FINAL DETERMINATIONS.

(a) Except as is provided in subparts (b), (c), (d), and (e) of this Rule, the preparation and review procedure for a recommendation regarding a final determination in a proceeding is as follows:

(1) At the conclusion of the taking of any evidence and testimony on the matter to be decided and after consideration of the evidence and testimony and any pertinent authority, the administrative law judge shall prepare a written *proposed* recommendation of final determination. Unless the nature of the proceeding necessitates a different format and substance, the *proposed* recommendation shall contain a summary of the allegations or application, pertinent legal authority and factual background, a review of the procedural history of the matter, findings of fact, conclusions of law and the recommended determination. The *proposed* recommendation shall be filed into the record, with copies contemporaneously mailed by the Administrative Hearings Division to all parties of record.

(2) Within fifteen (15) days of the filing of the *proposed* recommendation, any party may file into the record an exception to the *proposed* recommendation. The exception shall be in the form of a legal memorandum, and shall contain a statement of errors, pertinent legal authority, and references to the record in the proceeding, as appropriate. The exception shall not make reference to evidence of any kind which is not already a part of the record, except that a party may argue as to evidence tendered but excluded (offers of proof).

(3) If no party timely files an exception to the *proposed* recommendation, the re-c-ommendation shall become a *final* recommendation and shall be immediately forwarded to the Commissioners for consideration and for vote.

(4) If an exception to the *proposed* recommendation is timely filed, any party wishing to oppose the exception shall have fifteen (15) days from the filing of the exception in which to file an opposition memoranda into the record. The opposition memoranda shall address the statement of errors contained in the exception and shall include pertinent legal authority and references to the record in the proceeding, as appropriate. The opposition memoranda shall not include references to evidence of any kind which is not already a part of the record, except that a party may argue as to evidence tendered but excluded (offers of proof).

(5) At the conclusion of the time period for filing opposition memoranda to timely filed exceptions, no further briefing shall be allowed, except with the consent of the administrative law judge or by vote of the Commissioners.

(6) After reviewing any timely filed exception and opposition memoranda, the administrative law judge shall prepare a *final* recommendation. The *final* recommendation shall contain the elements described in subpart (a)(1) of this Rule.

(7) At the time the *final* recommendation is filed into the record, copies of the *final* recommendation shall be forwarded to the Commissioners and mailed to all parties of record.

(8) Upon submission of the *final* recommendation into the record, copies of the *final* recommendation shall be forwarded to the Secretary for placement on the Commission meeting agenda for a vote by the Commissioners.

(9) Within five (5) working days of the *final* recommendation, any party may request the opportunity to present oral argument at the Commission meeting. The request shall be in writing and shall be filed directly with the Secretary. The requesting party shall also mail a copy of the request to each Commissioner and to each party of record and shall file a copy of the request in the record of the proceeding. The request shall state the reasons why oral argument should be permitted and shall be considered a request on behalf of all parties to the proceeding. The Secretary shall place the request for oral argument on the Commission meeting agenda along with the *final* recommendation and shall notify the parties of its placement on the agenda. The request for oral argument shall be granted only upon a majority vote of the Commissioners at the Commission meeting, in response to a timely filed, written request. In granting a request for oral argument, the Commissioners may direct either that argument be presented during the course of that Commission meeting or at a subsequent Commission meeting. A party may waive its opportunity to present oral argument, either expressly or through its failure to appear and participate in the oral argument. Nothing in this subpart shall be construed as precluding any Commissioner from soliciting information, positions or recommendations or asking questions of any party appearing at a Commission meeting, regardless of whether a request for oral argument has been filed.

(10) In the event the Commission votes to grant the request for oral argument, each opposing

party (unless otherwise specified in the Commission vote) shall be allotted a maximum of 10 minutes. In addition, when several parties are aligned on the same side, those parties shall be allowed a total of ten (10) minutes to be allotted among them.

(11) In the event the Commissioners affirm the *final* recommendation of the administrative law judge, the recommendation shall be incorporated into the Order issued by the Commission. The Order shall be prepared by the administrative law judge who submitted the final recommendation affirmed by the Commission.

(12) In the event the Commissioners overrule the *final* recommendation of the administrative law judge, the resulting Order shall be prepared by the Legal Division of the Commission.

(b) Upon motion to the administrative law judge and upon a showing of good cause, or upon stipulation of all parties to the proceeding, the administrative law judge may extend or shorten the deadlines for the procedures described in subpart (a) of this Rule or, otherwise, may, extend, abbreviate or omit portions of those procedures.

(c) To the extent the Commission has delegated to the Commission staff the handling of certain uncontested matters, the procedures within subpart (a) of this Rule shall not apply.

(d) Except at the discretion of the administrative law judge, the procedures contained within subpart (a) of this Rule shall not apply to a motion to dismiss jointly filed by all parties of record, a motion to dismiss with prejudice filed by the party who instituted the proceeding, or a motion to dismiss without prejudice filed by a party who instituted the proceeding but prior to the filing of any other party' s filing of a responsive pleading. Upon the filing of such a motion to dismiss, the administrative law judge may forego all recommendation procedures and prepare an appropriate order of dismissal for issuance by the Commission.

(e) For transportation violation matters, at the conclusion of the taking of any evidence and testimony on the matter to be decided and after consideration of the evidence and testimony and any pertinent authority, the administrative law judge shall prepare a written *final* recommendation of final determination. No *proposed* recommendation will be issued. The procedures outlined in paragraph (a) regarding the *final* recommendation and the processes contemporaneous with and subsequent to its issuance remain applicable.

RULE 57: REVIEW OF INTERLOCUTORY RULINGS.

Every ruling of an administrative law judge shall be subject to review by the Commission upon its own motion. The Commission may also, upon its own motion, assert its original and primary jurisdiction and consider any question or issue pending before an Administrative Law Judge.

Any party may apply for immediate review of an interlocutory ruling, which may be obtained only upon a showing of irreparable injury, as defined in Louisiana jurisprudence. The procedure for such a request is as follows:

(1) Within ten (10) days of the issuance of the interlocutory ruling, a party may file with the Administrative Hearings Division a motion for immediate review of the ruling. The motion must be accompanied by a legal memorandum which specifies the alleged errors in the

ruling, with supporting legal authority, and sets out the grounds and authority for the moving party's claim that the interlocutory ruling will result in irreparable injury.

(2) Any party opposing the motion for immediate review shall have ten (10) days from the date on which the motion was filed to file an opposition memorandum.

(3) At the conclusion of the deadline for filing opposition memoranda, the Administrative Hearings Division shall forward to the Commissioners the motion for immediate review, any memoranda filed in support of or in opposition to the motion, a copy or transcript of the interlocutory ruling being questioned, and any written comment offered by the administrative law judge, and shall forward the motion for immediate review to the Secretary for placement on the Commission meeting agenda.

(4) Pending a ruling by the Commissioners on the motion for immediate review, the administrative law judge, may, upon motion, grant a stay of the interlocutory ruling upon a finding of good cause. The mere filing of a motion for immediate review shall not stay the interlocutory ruling and shall not interrupt, delay, or in any manner interfere with the proceedings in the docketed matter.

(5) The administrative law judge may treat the filing of the motion for immediate review as a motion for reconsideration of the interlocutory ruling and may withdraw or modify the interlocutory ruling in response to the motion.

RULE 58: COMMISSION A PARTY TO EVERY DOCKETED PROCEEDING.

Deleted – Incorporated into Rule 3.

RULE 59: DOCKETING OF MATTERS IN THE RECORDS DIVISION.

Deleted – Incorporated into Rule 3.

RULE 60: FILING OF PLEADINGS WITH THE RECORDS DIVISION.

Deleted – Incorporated into Rule 3.

RULE 61: FORM OF PLEADING AND NUMBER OF COPIES TO BE FILED.

Deleted – Incorporated into Rule 3.

RULE 62: PLEADINGS REQUESTING SERVICE BY THE COMMISSION.

Deleted – Incorporated into Rule 3.

PART XII. DISCOVERY

RULE 63: FORMS OF DISCOVERY PERMITTED/LIMITATIONS.

Formal discovery shall be conducted in adjudicatory proceedings in accordance with the Louisiana Code of Civil Procedure but may be limited at the discretion of the administrative law judge. Requests for admission are specifically disallowed, unless propounded with the prior express consent of the administrative law judge.

RULE 64: FILING OF DISCOVERY REQUESTS AND RESPONSES:

(a) Discovery requests and responses shall not be filed with the Administrative Hearings Division, and the originals of the requests and responses shall be maintained by the parties, who shall serve as the official custodians of those documents, unless:

(1) Filing is ordered by the administrative law judge or the Commissioners;

(2) A party files a motion to compel discovery or a motion to strike discovery requests, in which case the moving party shall file the pertinent discovery pleadings with the motion;

(3) The requests and responses are to be used or placed into evidence at any hearing in the proceeding or with regard to any motion or exception filed in the proceeding.

(b) Notices of depositions shall be filed into the record.

RULE 65: SERVICE OF DISCOVERY ON ALL PARTIES.

Any party propounding or responding to discovery requests shall mail copies of the requests or written responses to all parties of record.

PART XIII. ABANDONMENT OF PROCEEDINGS.

RULE 66: ABANDONMENT AFTER ONE YEAR.

Unless otherwise ordered by the Commission, an adjudicatory proceeding instituted before the Commission is deemed abandoned when the parties fail to take any step in its prosecution or defense for a period of one year.

PART XIV. SPECIAL PROCEDURE

RULE 67: SPECIAL FILING REQUIREMENTS FOR BRINGING "THREE HUNDRED FOOT RULE" ELECTRIC UTILITY DISPUTES BEFORE THE COMMISSION

A. An electric utility desiring to initiate a proceeding before the Commission for the purpose of alleging a violation of the "300 foot rule" pursuant to La. R.S. 45:123 and/or the applicable Commission's Orders

regarding territorial disputes and/or promotional practices, shall file a formal complaint, together with the following attachments:

1. Sworn Testimony and evidence in support of all allegations contained in the complaint;
2. A sworn statement by the utility (through counsel or an official representative) that a copy of this rule and copies of the complaint, supporting testimony and exhibits have been served by certified mail on the defendant utility and the customer whose service is at issue. United States Post Office certificates evidencing proof of certified mail service shall be filed with the Commission upon receipt.

B. If determined by the Commission Staff that the utility has filed a formal complaint, supporting testimony and evidence, in a sworn statement concerning service, the matter will be docketed and published in the Commission's Official Bulletin. The notice will specify an intervention period of 15 days. The defendant utility shall be deemed a party to the proceedings without the filing of a formal intervention pleading. The customer whose service is at issue may monitor the proceedings as an interested party or may choose to participate fully as a party to the proceedings. The customer will be deemed the interested party only unless the customer files an intervention advising of its intent to participate fully as a party to the proceedings

C. The defendant utility shall be deemed a party to the proceeding without the filing of a formal intervention pleading.

D. The customer whose service is at issue may monitor the proceeding as an "Interested Party" or may choose to participate fully as a party to the proceeding. The customer will be deemed an "Interested Party" only, unless the customer files an intervention, advising of its intent to participate fully as a party to the proceeding.