

Minnesota Public Utilities Commission

REQUEST FOR COMMENTS

Possible Amendment to Rules Governing Utility Proceeding, Practice, and Procedure, Minnesota Rules Chapter 7829, excluding part 7829.2550, which is subject to a separate pending rulemaking

Subject of Rule. The Minnesota Public Utilities Commission requests comments on its possible amendments to the rule chapter governing Utility Proceeding, Practice, and Procedure. The Commission is considering rule amendments that update the rules to eliminate outdated rule language, to address statutory changes, to clarify existing Commission procedures, and to establish procedural requirements that permit the Commission to more effectively perform its quasi-legislative and quasi-judicial functions.

Persons Affected. The amendments to the rules would likely affect all Commission proceeding parties and participants.

Statutory Authority. Minnesota Statutes, section 216A.05, subdivision 1, authorizes the Commission to adopt rules with respect to the control and conduct of the business coming within the Commission's jurisdiction.

Public Comment. Interested persons or groups may submit comments or information on this possible rule in writing or orally until 4:30 p.m. on April 8, 2013. The Commission has prepared a draft of the possible rule amendments, which is attached. Please refer to PUC Docket No. U-999/R-13-24 in your comments. You may also electronically file your comments using the Commission's electronic filing system located at: <https://www.edockets.state.mn.us/EFiling>.

Advisory Committee. The Commission has not determined whether to appoint an advisory committee to comment on the possible amendments. The Commission welcomes comments that address whether to appoint an advisory committee.

Agency Contact Person. Written or oral comments, questions, requests to receive a draft of the possible amendments, and requests for more information on the possible amendments should be addressed to: Christopher Moseng, Staff Attorney, Public Utilities Commission, 121 Seventh Place East, Suite 350, Saint Paul, Minnesota, 55101-2147; telephone: 651-201-2223, Fax 651-297-7073; and Email christopher-moseng@state.mn.us. Persons with hearing loss or speech disabilities may call us through Minnesota Relay at 1-800-627-3529 or by dialing 711.

Comments submitted in response to this notice may not be included in the formal rulemaking record when a proceeding to adopt a rule is started.

Working Draft. The Commission's current working draft of the possible amendments is set forth below.

7829.0100 DEFINITIONS.

Subpart 1. Scope.

The terms used in this chapter have the meanings given them in this part.

Subp. 2. Classification petition.

"Classification petition" means a petition filed by a telephone company to classify a telephone service as subject to emerging or effective competition under Minnesota Statutes, section 237.59.

Subp. 3. Commission.

"Commission" means the Minnesota Public Utilities Commission.

Subp. 4. Complainant.

"Complainant" means a person who complains formally or informally of an alleged violation of a statute or rule within the commission's jurisdiction, a utility tariff, or a commission order.

Subp. 5. Cost-increase filing.

~~"Cost-increase filing" means a miscellaneous tariff filing under Minnesota Statutes, section 237.63, proposing a rate increase for a particular telephone service on grounds that the actual costs of providing that particular service have increased. It does not include cost increases that are part of overall cost increases and cost increases that have been discovered as a result of new cost studies.~~

Subp. 65. Department.

"Department" means the Minnesota Department of Commerce.

Subp. 76. Expedited proceeding.

"Expedited proceeding" means an informal proceeding described in Minnesota Statutes, section 237.61, and subject to specific procedural requirements such as verification of pleadings.

Subp. 87. Informal proceeding.

"Informal proceeding" means a proceeding that addresses and resolves issues of public policy, fact, or law without a formal contested case proceeding before the Office of Administrative Hearings.

Subp. 98. Intervenor.

"Intervenor" means a person permitted to intervene as a party in a proceeding under this chapter.

Subp. 10. Language change filing.

~~"Language change filing" means a miscellaneous tariff filing under Minnesota Statutes, section 237.63, changing descriptive language in a telephone utility tariff without changing the meaning or operation of the tariff.~~

Subp. 119. Miscellaneous tariff filing.

"Miscellaneous tariff filing" means a request or notice that does not require determination of the utility's revenue requirement.

A miscellaneous tariff filing includes a filing involving a new service offering; a change in a utility's rates, services, terms, or conditions of service; a change in a utility's corporate structure, assigned service area, or capital structure, when conducted separately from a general rate proceeding; filings made under the rules governing automatic adjustment of charges (Minn. R. 7825.2390 – 2850); or any related matter. ~~The term also includes a language change filing, cost increase filing, and rate reduction filing.~~

The inclusion of a particular type of filing in this list does not require a filing that would not otherwise be required or confer jurisdiction that would not otherwise be present.

Subp. 10. Motion filing.

"Motion filing" means a written request for specific commission action by a party within the context of an ongoing proceeding. This does not include recommendations for action made in

comments authorized by part 7829.1400, nor motions made during a proceeding before an administrative law judge.

Subp. ~~12~~11. Municipality.

"Municipality" includes a town, statutory city, and home rule charter city.

Subp. ~~13~~12. Participant.

"Participant" means a person who files comments or appears in a proceeding, other than public hearings held in contested cases and other commission proceedings conducted to receive general public comments, to present views without becoming a party.

Subp. ~~14~~13. Party.

"Party" means a person by or against whom a proceeding before the commission is commenced or a person permitted to intervene in a proceeding under this chapter. A party to a proceeding is styled a "petitioner," "complainant," "intervenor," or "respondent," according to the nature of the proceeding and the relationship of the party to the proceeding.

Subp. ~~15~~14. Person.

"Person" means a natural person, corporation, municipal corporation, public corporation, utility, governmental entity, government agency, association, partnership, receiver, joint venture, trustee at common law or statutory trust guardian, or executor.

Subp. ~~16~~15. Petitioner.

"Petitioner" means a person who requests the commission's permission, authorization, or approval or a person who notifies the commission of a proposed change in a rate, service, or term or condition of service.

Subp. ~~17~~17. Price list filing.

~~"Price list filing" means a filing under Minnesota Statutes, section 237.60, pertaining to telephone services claimed to be subject to emerging or effective competition.~~

Subp. ~~18~~16. Proceeding.

"Proceeding" means a formal or informal undertaking of the commission, in which it seeks to resolve a question or issue taken up on its own motion or presented to it in a complaint, petition, or notice of a proposed change in a rate, service, or term or condition of service.

Subp. ~~19~~17. Proof of service.

"Proof of service" means a certificate of service stating the facts of service, including the time and manner of service and the parties served.

Subp. ~~20~~18. Protected data.

"Protected data" means data filed with the commission that is either

- a. properly identified as nonpublic data under the Minnesota Government Data Practices Act, Minnesota Statutes 13.37, or
- b. data that is protected from disclosure pursuant to the rules of privilege recognized by law.

Subp. ~~21~~20. Rate reduction filing.

~~"Rate reduction filing" means a miscellaneous tariff filing under Minnesota Statutes, section 237.63, proposing a reduction in a rate for telephone service.~~

Subp. ~~22~~19. Respondent.

"Respondent" means a person against whom a complaint is filed or against whom an investigation or other proceeding on commission motion is addressed.

Subp. ~~23~~20. Suspend.

"Suspend" means to hold in abeyance or to delay the effective date of.

Subp. ~~24~~21. Utility.

"Utility" means a gas, electric, or telecommunications service provider~~telephone company~~ subject to the jurisdiction of the commission.

Statutory Authority:

MS s 216A.05

History:

19 SR 116; L 2001 1Sp4 art 6 s 1

Posted:

August 21, 2007

7829.0200 SCOPE AND CONSTRUCTION.

Subpart 1. Construction.

This chapter must be construed to secure the just, speedy, and economical determination of issues before the commission. This chapter must be construed in light of the commission's statutory authority and responsibilities.

Subp. 2. Conflicting statutes and substantive rules to control.

This chapter governs practice and procedure in matters before the commission except when a statute or a rule on a specific topic contains procedural requirements in direct conflict with this chapter. Then, the statute or rule on a specific topic controls insofar as it is in direct conflict with this chapter.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

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7829.0300 COMPUTATION OF TIME.

In computing a period of time prescribed by this chapter, the commission shall exclude the first and include the last day of the designated period of time. When the last day of the time period falls on Saturday, Sunday, or a legal holiday, that day must be omitted from the computation.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

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7829.0400 SERVICE AND FILING REQUIREMENTS.

Subpart 1. Filing.

~~Documents are filed with the commission when they are received in the commission offices during regular business hours. Specific documents may be filed by facsimile transmission or filed when mailed, with the consent of the executive secretary. Documents must be directed to the attention of the executive secretary.~~

Documents must be filed in a manner consistent with the electronic filing requirements of Minnesota Statutes, section 216.17, subdivision 3. Documents must be directed to the attention of the executive secretary. Documents are filed with the commission

- a) when submitted, if submitted and accepted into the commission's electronic filing system, or
- b) when received in the commission offices during regular business hours, if not filed electronically. Specific documents may be filed by facsimile transmission or filed when mailed, with the consent of the executive secretary.

Subp. 2. Number of copies.

~~Parties and participants shall file an original and 15 copies of each document filed with the commission, unless otherwise directed by the executive secretary.~~

Subp. 32. Proof of service.

Filings must be accompanied by proof of service on the persons on the appropriate service list.

Subp. 43. Format.

Filings must identify the nature of the filing as briefly as possible, for example, "Replies to Exceptions to Report of Administrative Law Judge," and indicate that the matter is before the Minnesota Public Utilities Commission. Filings after the original filing must include the title and docket number of the matter. ~~P~~Paper filings must be on 8-1/2 by 11-inch paper, unless the executive secretary authorizes a nonconforming filing for good cause shown. Electronic filings must be submitted in a text-searchable format—scanned documents must include optical character recognition data.

Subp. 54. Service.

A document filed with the commission must be served the same day on the persons listed on the appropriate service list, except when this chapter permits service of a summary of the filing. Service may be accomplished by first class mail, ~~or~~ by delivery in person, or electronically upon recipients who have consented to electronic service as provided in Minnesota Statutes, section 216.17, subdivision 4, unless otherwise provided by law or commission order. Service may also be accomplished by facsimile transmission, followed by first class mail. Service on the department is complete upon receipt by the department. For all other persons, unless the executive secretary directs otherwise for specific documents, electronic service is complete upon completed electronic transmission of the document; service by mail or facsimile transmission plus mail is complete upon mailing. ~~unless the executive secretary directs otherwise for specific documents.~~ When a party or participant is represented by an attorney, service upon the attorney is considered service upon the party or participant.

Subp. 65. Proceeding before administrative law judge.

During the time that a matter is before an administrative law judge, service and filing requirements are controlled by the rules of the Office of Administrative Hearings and by any orders issued under those rules by the administrative law judge.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

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7829.0411 REPRESENTATIONS TO THE COMMISSION.

Any person who signs a filing or enters an appearance at a commission meeting, by doing so, represents that he or she is authorized to do so and has a good faith belief that statements of fact

made are true and correct, and that legal assertions made are warranted by existing law or by a reasonable extension or reversal of existing law.

Statutory Authority:

MS s 216A.05

7829.0420 MOTION FILINGS.

Subpart. 1. Form and content.

Parties to a proceeding making motion filings shall make them in writing, shall state the grounds for the motion, and shall set forth the requested commission action. Parties shall serve motion filings on the persons listed on the official service list and file them consistent with the electronic filing requirements of Minnesota Statutes, section 216.17, subdivision 3. Parties shall as a part of their motion filing advise other parties that if they wish to oppose the motion they must file and serve on the same list of persons a written response within ten days. The commission will consider only motion filings signed by a party or the party's attorney or authorized representative.

Subp. 2. Responses.

Parties responding to motion filings shall serve their responses on the persons listed on the official service list and file them consistent with the electronic filing requirements of Minnesota Statutes, section 216.17, subdivision 3, within ten days of service of the motion filing.

Statutory Authority:

MS s 216A.05

7829.0500 ~~TRADE SECRET AND PROPRIETARY INFORMATION~~ PROTECTED DATA.

Subpart 1. Confidentiality protected.

Nothing in this chapter requires the public disclosure of privileged proprietary information, trade secrets, or other privileged information.

Subp. 2. Procedure for excision.

Persons filing documents containing ~~proprietary information, trade-protected data~~ or other privileged information shall file one copy of the document with the information redacted, and one copy without redactions, designated as required in subpart 4 and identified as a nonpublic document during the electronic submission process. ~~excise this information in all copies but the original and six copies.~~ The first page or cover page of a document from which protected information has been excised must be clearly captioned in bold print "PUBLIC DOCUMENT—NONPUBLIC (or PRIVILEGED) DATA HAS BEEN EXCISED. The beginning and end of the excised protected data must be identified.

Subp. 3. Identification of excised material.

When a person classifies an entire document, or a substantial part of a document, as protected ~~information~~data, the person shall file a description of the excised material that includes at least the following information: the nature of the material, its authors, its general import, and the date on which it was prepared.

Subp. 4. Document containing protected information.

The first page or cover page of a document containing protected ~~information~~data must be clearly marked in bold print "~~TRADE SECRET INFORMATION~~ NONPUBLIC DOCUMENT — NOT FOR PUBLIC DISCLOSURE" or with words of similar import. Every page on which protected

information appears must be similarly marked and the protected information must be underlined, placed in brackets, or otherwise clearly identified as the information which is to be protected from disclosure.

Subp. 5. Statement required.

In all cases where a person or entity files data with the commission that is identified as non-public or privileged, an accompanying statement justifying the state agencies treating the data as protected data must also be filed. This justification must include an explanation of how the data either is classified as non-public under Minnesota Statutes section 13.37, or is privileged under a rule of privilege recognized by law.

Statutory Authority:

MS s 216A.05

History:

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7829.0600 GENERAL SERVICE LIST.

Subpart 1. Establishing list.

Persons desiring to receive notice of particular types of filings and who are qualified to intervene under part 7829.0800 shall file with the utility a written list of the types of filings they wish to receive. The utility shall maintain general service lists of persons who have filed these requests. The utility shall add to each list the persons who intervened in its last general rate case and persons on the official service list for its last filing of the same type.

Subp. 2. Annual updating.

The utility may delete from its general service list a person who fails to respond within 30 days to an annual mailing inquiring whether that person wishes to continue receiving the filings requested.

Subp. 3. Periodic addition.

A person may be added to the utility's general service list at any time by filing a request under subpart 1, even if the person failed to respond to an annual mailing as described in subpart 2.

Subp. 4. Jurisdiction unaffected.

The service lists established in this part are intended to provide the earliest possible notice to persons who may be interested in a particular filing. The requirements of this part do not displace or add to legal notice requirements, and a utility's failure to comply with this part does not deprive the commission of jurisdiction over a matter of which it would otherwise have jurisdiction, require dismissal of a filing, or invalidate any determination made by the commission in the matter.

Subp. 5. Party or participant status unaffected.

Inclusion on a general service list does not confer party or participant status on persons included on the list.

Statutory Authority:

MS s 216A.05

History:

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7829.0700 OFFICIAL SERVICE LIST.

Subpart 1. Content.

The official service list for each proceeding consists of the names of the parties and the names of participants who have filed a written request for inclusion on the service list with the executive secretary.

Subp. 2. Establishment and updating.

The commission shall establish the official service list at the conclusion of the initial comment period and shall mail a copy of the list to the parties and to participants who have filed written requests for inclusion. A list established before commission action on a petition for intervention must include those persons whose intervention petitions are pending. The commission shall mail an updated official service list to the parties and participants if the official service list is later expanded or reduced. The commission need not mail the official service list in proceedings when the only parties are the department and a petitioner, complainant, or respondent. The commission may provide the official service list electronically rather than by mail to those who have consented to electronic service as provided in Minnesota Statutes, section 216.17, subdivision 4.

Subp. 3. Limiting service list.

On its own motion or at the request of a party, the commission shall limit the service list to parties to the proceeding if it finds that requiring service on participants is unduly burdensome.

Subp. 4. Name and address change.

A party or participant who wishes to change the name or address of a person receiving service on behalf of the party or participant shall provide written notice of the change to the executive secretary and to persons on the official service list.

Subp. 5. Proceeding before administrative law judge.

In proceedings before an administrative law judge in which the judge establishes a service list, the names on that service list must remain on the official service list for the remainder of the proceeding.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

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7829.0800 PETITION TO INTERVENE.

Subpart 1. Filing and service.

A person who desires to become a party to a proceeding shall file a petition to intervene within the time set in this chapter. The petition must be served on known parties and those persons on the utility's general service list for the matter, if applicable.

Subp. 2. Grounds for intervention.

The petition must allege the grounds for intervention and must be granted upon a showing that: the person is specifically considered by statute to be interested in the particular type of matter at issue; the person is specifically declared by statute to be an interested party; or the outcome of the proceeding will bind or affect the person with respect to an interest peculiar to that person, as distinguished from an interest common to the public or other ratepayers in general, or the

person's interests are not adequately represented by one or more other parties participating in the case.

Subp. 3. Intervention as of right.

The department and the Office of the Attorney General, through its Residential Utilities Division, may intervene as of right in any proceeding before the commission. They become parties upon filing comments under this chapter and need not file petitions to intervene, except when the rules of the Office of Administrative Hearings require it.

Subp. 4. Objection to intervention.

An objection to intervention must be filed within ten days of service of the petition to intervene.

Subp. 5. Disposition of petition.

If there is no objection to intervention and a petition to intervene is not denied or suspended within 15 days of filing, the petition to intervene must be considered granted, unless the matter is referred to the Office of Administrative Hearings for contested case proceedings before the expiration of the 15-day period.

Subp. 6. Proceeding before administrative law judge.

During the time that a matter is before an administrative law judge, intervention procedures are governed by the rules of the Office of Administrative Hearings and by orders issued under those rules by the administrative law judge.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

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7829.0900 PARTICIPANT.

A person may file comments in a proceeding before the commission without requesting or obtaining party status. A participant may also be granted an opportunity for oral presentations.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

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7829.1000 REFERRAL FOR CONTESTED CASE PROCEEDING.

If a proceeding involves contested material facts and there is a right to a hearing under statute or rule, or if the commission finds that all significant issues have not been resolved to its satisfaction, the commission shall refer the matter to the Office of Administrative Hearings for contested case proceedings, unless:

A. all parties waive their rights to contested case proceedings and instead request informal or expedited proceedings, and the commission finds that informal or expedited proceedings would be in the public interest; or

B. a different procedural treatment is required by statute.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

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7829.1100 PUBLIC HEARING.

When a public hearing is held in connection with a contested case proceeding, the commission shall, whenever possible, schedule the public hearing to be held before the evidentiary hearings.

Statutory Authority:

MS s 216A.05

History:

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7829.1200 INFORMAL OR EXPEDITED PROCEEDING.

Subpart 1. When appropriate.

Informal or expedited proceedings may be used when contested case proceedings are not required, for example, when:

- A. there are no material facts in dispute;
- B. the parties and the commission have agreed to informal or expedited proceedings; or
- C. informal or expedited proceedings are authorized or required by statute.

Subp. 2. Presentation of facts.

Written submissions are the preferred method of introducing facts. The commission shall allow oral presentation of facts when that can be done without compromising the rights of any person or the integrity of the proceeding. In informal proceedings, the commission shall require that factual allegations be made under oath or by affirmation when facts appear to be in dispute. In expedited proceedings, the commission shall require that factual allegations be made under oath or by affirmation and that documents filed in the proceeding be verified.

Subp. 3. Notice.

The commission shall notify the persons on the official service list at least ten days before a meeting at which it may act on the basis of informal or expedited proceedings. Under exigent circumstances the executive secretary shall reduce the ten-day notice period.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

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7829.1250 UNCONTESTED PROCEEDING SUBCOMMITTEE

Subpart 1. Consent calendar subcommittee.

The commission may refer filings to a subcommittee for disposition as authorized by Minnesota Statutes, section 216A.03, subdivision 8, when

- a) the proceeding involves no disputed or novel issues, and
- b) no person has requested that the proceeding not be delegated to a subcommittee.

Subp. 2. Other subcommittees.

This part is not intended to limit the circumstances under which the commission may delegate functions to a subcommittee.

Statutory Authority:

MS s 216A.03

7829.1300 MISCELLANEOUS TARIFF AND PRICE LIST FILINGS.

Subpart 1. Summary.

A miscellaneous ~~tariff filing and price list filing~~ must include, on a separate page, a one-paragraph summary of the filing, sufficient to apprise potentially interested parties of its nature and general content.

Subp. 2. Service.

The filing utility shall serve copies of each miscellaneous ~~tariff filing~~ on which commission action is required within 60 days, ~~and each price list filing increasing the price of a competitive service,~~ on the persons on the applicable general service list, on the department, and on the Residential Utilities Division of the Office of the Attorney General. For other filings, the utility may serve the summary described in subpart 1 on persons on the applicable general service list. The utility shall serve with the filing or the summary a copy of its general service list for the filing.

Subp. 3. Content of filing subject to specific requirements.

In addition to complying with specific requirements imposed by statute or rule, miscellaneous ~~tariff and price~~ filings subject to specific filing rules must contain at least the following information:

- A. the name, address, and telephone number of the utility, without abbreviation;
- B. the name, address, electronic address, and telephone number of the attorney for the utility, if the utility is using an attorney;
- C. the date of the filing and the date the proposed rate or service change will go into effect;
- D. the statute that the utility believes controls the time frame for processing the filing; and
- E. the signature, electronic address, and title of the utility employee responsible for the filing.

Subp. 4. Content of filing not subject to specific filing rules.

In addition to complying with any specific requirements imposed by statute, miscellaneous ~~tariff and price list~~ filings not subject to specific filing rules must contain at least the following information:

- A. the name, address, and telephone number of the utility, without abbreviation;
- B. the name, address, electronic address, and telephone number of the attorney for the utility, if the utility is using an attorney;
- C. the date of the filing and the date the proposed rate or service change will go into effect;
- D. the statute that the utility believes controls the time frame for processing the filing;
- E. the signature, electronic address and title of the utility employee responsible for the filing; and
- F. a description of the filing, its impact on rates and services, its impact on the utility and affected ratepayers, and the reasons for the filing.

Subp. 5. Rejection of filing.

The commission shall reject a filing found to be substantially out of compliance with this chapter or applicable statutory requirements.

Subp. 6. Compliance filings.

Unless otherwise ordered by the commission, utilities shall file a compliance filing within 10 days of a commission order requiring it.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

Posted:

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7829.1400 MISCELLANEOUS TARIFF, PRICE LIST FILING; COMMENTS.

Subpart 1. Initial comments.

A person wishing to comment on a miscellaneous ~~tariff or price list~~ filing shall do so within 30 days of its filing with the commission. ~~A person wishing to comment on one of the following noncompetitive rate change filings shall do so within 20 days of its filing with the commission: a rate reduction filing, a cost increase filing, or a request for a significant change in a condition of telephone service.~~ A person wishing to comment on a new telephone service, competitive or noncompetitive, shall do so within ten days of its filing with the commission. Comments must be served on the persons on the utility's general service list for the filing, as well as on the filing utility.

Subp. 2. Petition to intervene.

If a person who files initial or reply comments is not entitled to intervene in commission proceedings as of right and desires full party status, the person shall file a petition to intervene before the initial or reply comment period expires. The intervention petition may be combined with the comments on the filing.

Subp. 3. Comments to include procedural recommendation.

A person commenting on a miscellaneous ~~tariff or price list~~ filing and recommending its rejection, denial, or modification shall specify whether the person believes the filing requires a contested case proceeding, informal proceeding, expedited proceeding, or some other procedural treatment, together with the person's reasons for recommending a particular procedural treatment.

Subp. 4. Reply comments.

The utility and other persons have ten days from the expiration of the original comment period to file reply comments. Reply comments must be served on the utility and persons who have filed comments on the miscellaneous ~~tariff~~ filing. Reply comments must be limited in scope to the issues raised in the initial comments.

Subp. 5. Additional comments.

If further information is required to make a fully informed decision, the commission shall require additional comments and identify specific issues requiring further development.

Subp. 6. Comments on supplemental or corrected filings.

The commission shall provide opportunity for other parties to respond to supplemental or corrected filings when those filings raise new issues.

Subp. 7. Comment periods varied.

Except for comment periods set by statute, the commission may vary the comment periods set by this chapter on its own motion or at the request of a person for good cause shown. The commission may delegate the authority to vary time periods to the executive secretary.

Subp. 8. Comment periods extended at department's request.

At the request of the department, the commission shall extend the comment periods in parts 7829.1300 and 7829.1400 up to an additional 30 days, except for comment periods established by statute and except when the commission must act within 60 days to prevent proposed rate changes from going into effect.

Subp. 9. Requests for contested case proceedings.

Upon receipt of initial comments requesting a contested case proceeding on a miscellaneous ~~tariff filing or price list~~ filing, the commission shall immediately set the matter for consideration on a date after the time period for reply comments has run. If the commission finds a contested case proceeding is required, the commission shall refer the matter to the Office of Administrative Hearings pursuant to part 7829.1000, and the utility shall file its direct testimony in question and answer form within 20 days of the commission's notice and order for hearing.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

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7829.1500 INFORMAL COMPLAINT.

Persons engaged in disputes with utilities may submit informal complaints by letter or other writing, by telephone, or in person. Commission staff shall accept these complaints and shall prepare a memorandum setting forth the substance of each complaint and identifying the customer, the service address, and the utility.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

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7829.1600 TREATMENT OF INFORMAL COMPLAINT.

Commission staff shall try to help resolve informal complaints by correspondence, mediation, arbitration, and other informal means. If the complainant desires formal action by the commission, a formal complaint must be initiated by the commission, or filed by a qualified complainant.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

Posted:

August 21, 2007

7829.1700 FORMAL COMPLAINT.

Subpart 1. Content.

A formal complaint must include the following information: the name and address of the complainant; the name and address of complainant's counsel, if any; the name and address of respondent; the name and address of respondent's counsel, if known; the statute, rule, tariff, or commission order alleged to have been violated; the facts constituting the alleged violation; and the relief sought by complainant.

Subp. 2. Mailing and filing.

A formal complaint must be mailed to the respondent, the department, and the Residential Utilities Division of the Office of the Attorney General, as well as filed with the commission.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

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7829.1800 INITIAL CONSIDERATION OF FORMAL COMPLAINT.

Subpart 1. Initial commission review.

The commission shall review a formal complaint as soon as practicable to determine whether the commission has jurisdiction over the matter and to determine whether there are reasonable grounds to investigate the allegation. On concluding that it lacks jurisdiction or that there is no reasonable basis to investigate the matter, the commission shall dismiss the complaint.

Subp. 2. Answer.

On concluding that it has jurisdiction over the matter and that investigation is warranted, the commission shall serve the complaint on the respondent, together with an order requiring the respondent to file an answer either stating that it has granted the relief the complainant requests, or responding to the allegations of the complaint. The answer must be filed with the commission and served on the complainant, the department, and the Residential Utilities Division of the Office of the Attorney General within 20 days of service of the complaint and order.

Subp. 3. Reply.

Replies are not required unless the answer alleges that respondent has granted the relief sought by complainant. In that case, the complainant shall file a reply within 20 days admitting or denying that relief has been granted. If the complainant fails to file the reply, the commission shall dismiss the complaint. Copies of the reply must be served on respondents, the department, and the Residential Utilities Division of the Office of the Attorney General.

Subp. 4. Failure to answer.

If the respondent fails to answer a complaint served by the commission under subpart 2, the commission shall consider the allegations of the complaint denied.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

Posted:

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7829.1900 COMMISSION ACTION ON FORMAL COMPLAINT.

Subpart 1. Nature of proceedings.

The commission shall deal with a formal complaint through a contested case proceeding, informal proceeding, or expedited proceeding.

Subp. 2. Initial comments.

A person wishing to comment on a formal complaint shall do so within 30 days of the date of a commission order requiring an answer to the complaint. Comments must be served on the complainant, respondent, department, Residential Utilities Division of the Office of the Attorney General, and any other known parties.

Subp. 3. Reply comments.

A commenting party has ten days from the expiration of the original comment period to file reply comments. Reply comments must be limited in scope to the issues raised in the initial comments and must be served on the complainant, respondent, department, Residential Utilities Division Of the Office of the Attorney General, and any other known parties.

Subp. 4. Petition to intervene.

If a person who files initial or reply comments is not entitled to intervene in commission proceedings as of right and desires full party status, the person shall file a petition to intervene before the initial or reply comment period expires. The intervention petition may be combined with the comments on the complaint.

Subp. 5. Comments to include procedural recommendation.

A person commenting on a complaint shall specify whether the person believes the matter requires a contested case proceeding, informal proceeding, expedited proceeding, or some other procedural treatment, together with the reasons for recommending a particular procedural treatment.

Subp. 6. Additional comments.

If further information is required to make a fully informed decision, the commission shall require additional comments and identify specific issues requiring further development.

Subp. 7. Comments on supplemental or corrected filings.

The commission shall provide opportunity for other parties to respond to supplemental or corrected filings when those filings raise new issues.

Subp. 8. Comment periods varied.

Except for time periods set by statute, the commission may vary the comment periods established in this part at the request of a person for good cause shown. The commission may delegate the authority to vary time periods to the executive secretary.

Subp. 9. Comment periods extended at department's request.

At the request of the department, the commission shall extend the comment periods established in this part up to an additional 30 days, except for comment periods set by statute.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

Posted:

August 21, 2007

7829.2000 ELECTRIC SERVICE AREA COMPLAINT.

Subpart 1. Content.

A complaint alleging violation of an electric utility's assigned service area must include a map that the complainant reasonably believes to be a copy of the official service area map of an area at issue, with the area of the alleged violation clearly marked.

Subp. 2. Service and filing.

A service area complaint must be served on the respondent, department, and Residential Utilities Division of the Office of the Attorney General, as well as filed with the commission.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

Posted:

August 21, 2007

7829.2100 COMMISSION ACTION ON SERVICE AREA COMPLAINT.

Subpart 1. Answer.

Within ten days of service of a service area complaint, a respondent shall file an answer with the commission and serve it on the complainant, department, and Residential Utilities Division of the Office of the Attorney General.

Subp. 2. Initial comments.

A person wishing to comment on a service area complaint shall do so within ten days of the date the person was served. Comments must be served on the complainant, respondent, department, Residential Utilities Division of the Office of the Attorney General, and any other known parties.

Subp. 3. Petition to intervene.

If a person who files comments is not entitled to intervene in a commission proceeding as of right and desires full party status, the person shall file a petition to intervene before the initial comment period expires. The intervention petition may be combined with the comments on the complaint and must be served on those persons entitled to service of the comments.

Subp. 4. Additional comments.

If further information is required to make a fully informed decision, the commission shall require additional comments and identify specific issues requiring further development.

Subp. 5. Comments on supplemental or corrected filing.

The commission shall provide opportunity for other parties to respond to supplemental or corrected filings when those filings raise new issues.

Subp. 6. Time for disposition.

Service area complaints must come before the commission within 15 days of filing. The commission shall issue its order within 30 days after the hearing.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

Posted:

August 21, 2007

7829.2300 CLASSIFICATION PETITION.

Subpart 1. Summary.

A telephone utility filing a classification petition under Minnesota Statutes, section 237.59, shall include on a separate page a brief summary of the filing, sufficient to apprise potentially interested parties of its nature and general content.

Subp. 2. Service.

A utility filing a classification petition shall serve copies of the petition on the department and Residential Utilities Division of the Office of the Attorney General. The utility shall serve the petition or the summary described in subpart 1 on those persons on the applicable general service list and on those persons who were parties to its last general rate case or incentive plan proceeding, if applicable.

Subp. 3. Challenges to form and completeness.

A person wishing to challenge the form or completeness of a classification petition shall do so within ten days of its filing. The filing utility shall reply to the challenge within five days of its filing. Challenges and responses must be served on the department, Residential Utilities Division of the Office of the Attorney General, persons on the general service list for the filing, and any other known parties.

Subp. 4. Rejection of filings.

The commission shall reject a classification petition found to be substantially out of compliance with Minnesota Statutes, section 237.59, or with any other filing requirement imposed by rule or statute. A filing under this section not rejected within 45 days of filing is considered accepted as in substantial compliance with applicable filing requirements.

Subp. 5. Initial comments.

A person wishing to comment on a classification petition shall file initial comments within 20 days of the filing. Initial comments must include a recommendation on whether the filing requires a contested case proceeding, expedited proceeding, or some other procedural treatment, together with reasons for recommending a particular procedural treatment. Initial comments must be served on the utility, department, Residential Utilities Division of the Office of the Attorney General, persons on the general service list for the filing, and any other known parties.

Subp. 6. Petition to intervene.

If a person who files initial comments is not entitled to intervene in a commission proceeding as of right and desires full party status, the person shall file a petition to intervene before the reply comment period expires. The intervention petition may be combined with comments on the filing and must be served on those persons entitled to receive service during the comment period when the intervention petition is filed.

Subp. 7. Reply comments.

Commenting parties have ten days from the expiration of the original comment period to file reply comments. Reply comments must be limited in scope to the issues raised in the initial comments. Reply comments must be served on the utility and on those persons who have filed initial comments.

Subp. 8. Additional comments.

If further information is required to make a fully informed decision, the commission shall require additional comments and identify specific issues requiring further development.

Subp. 9. Comments on supplemental or corrected filing.

The commission shall provide opportunity for other parties to respond to a supplemental or corrected filing when the filing raises new issues.

Subp. 10. Nature of proceeding.

The commission shall deal with a classification petition by conducting an expedited proceeding under Minnesota Statutes, section 237.61, or by referring the matter for a contested case proceeding.

Subp. 11. Time frame for disposition; expedited proceeding.

When the filing utility requests an expedited proceeding on its classification petition, the commission shall take final action within 60 days of the date on which the utility provides the substantive information required by statute, unless the commission finds at least one issue of material fact in dispute and refers the matter for a contested case proceeding within the same 60-day period.

Subp. 12. Time frame for disposition; contested case proceeding.

When the commission conducts a contested case proceeding, it shall take final action within eight months of the utility's request for a contested case proceeding or the commission's order that contested case proceedings be held, whichever occurs earlier.

Subp. 13. Extending disposition period.

The commission may extend the eight-month time frame set forth in subpart 12 with the agreement of all parties or upon a finding that the case cannot be completed within the required time and that there is a substantial probability that the public interest would be harmed by enforcing the eight-month time frame.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

Posted:

August 21, 2007

7829.2400 FILING REQUIRING DETERMINATION OF GROSS REVENUE.

Subpart 1. Summary.

A utility filing a general rate case or other filing that requires determination of its gross revenue requirement shall include, on a separate page, a brief summary of the filing, sufficient to apprise potentially interested parties of its nature and general content.

Subp. 2. Service.

A utility filing a general rate change request shall serve copies of the filing on the department and Residential Utilities Division of the office of the Attorney General. The utility shall serve the filing or the summary described in subpart 1 on the persons on the applicable general service list and persons who were parties to its last general rate case or incentive plan proceeding.

Subp. 3. Notice to public and governing bodies.

A utility seeking a general rate change shall give notice of the proposed change to the governing body of each municipality and county in its service area and to its ratepayers. The utility shall also publish notice of the proposed change in newspapers of general circulation in all county seats in its service area.

Subp. 4. Challenge to form and completeness.

A party wishing to challenge the form or completeness of a general rate case filing shall do so within ten days of its filing. The filing utility shall reply to the challenge within five days of its filing. Challenges and responses must be served on the department, Residential Utilities Division of the Office of the Attorney General, persons on the general service list for the filing, and any other known parties.

Subp. 5. Rejection of filing.

The commission shall reject a filing under this part that is found to be substantially out of compliance with Minnesota Statutes, section 216B.16 or 237.075, or other requirement imposed by rule, statute, or previous commission order. A filing under this part not rejected within 60 days of filing is considered accepted as in substantial compliance with applicable filing requirements.

Subp. 6. Petition to intervene.

The commission shall entertain a petition to intervene until the matter is referred to the Office of Administrative Hearings for a contested case proceeding or until the commission issues a notice under part 7829.1200, subpart 3, stating its intention to decide the matter on the basis of an informal or expedited proceeding. Once a filing is referred for a contested case proceeding, the rules of the Office of Administrative Hearings control intervention rights.

Subp. 7. Notice of hearing.

The utility shall notify its ratepayers of hearings held in connection with its rate change request in the manner directed by the commission. The utility shall publish notice of hearings on its rate change request in newspapers of general circulation in all county seats in its service area, as directed by the commission.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

Posted:

August 21, 2007

7829.2500 CERTIFICATE OF NEED FILING.

Subpart 1. Compliance.

Certificate of need applications must comply with the requirements of Minnesota Statutes, sections 216B.2421 and 216B.243; Minnesota Rules, chapters 7851, 7853, and 7855, and parts 7849.0010 to 7849.0400; and any other requirements imposed by rule or statute.

Subp. 2. Summary.

A person filing a certificate of need application shall include, on a separate page, a brief summary of the filing, sufficient to apprise potentially interested parties of its nature and general content.

Subp. 3. Service.

A certificate of need applicant shall serve copies of the filing on the department and Residential Utilities Division of the Office of the Attorney General. The applicant shall serve the filing or the summary described in subpart 2 on those persons on an applicable general service list and on those persons who were parties to its last general rate case or incentive plan proceeding, if applicable.

Subp. 4. Publication in State Register.

The commission shall publish notice of the certificate of need filing in the State Register and shall solicit public comment on the application.

Subp. 5. Publication in newspapers.

The applicant shall publish notice of the filing in newspapers of general circulation throughout the state.

Subp. 6. Solicitation of comments on filing compliance.

The commission shall request comments on the filing's compliance with Minnesota Statutes, sections 216B.2421 to 216B.243, and Minnesota Rules, chapters 7851, 7853, and 7855, and parts 7849.0010 to 7849.0400, when it determines that comments would be helpful in evaluating the filing's substantial compliance with the requirements of those statutes and rules. The commission may delegate the authority to request these comments to the executive secretary.

Subp. 7. Rejection of filing.

The commission shall reject a filing under this part that is found to be substantially out of compliance with Minnesota Statutes, sections 216B.2421 to 216B.243; Minnesota Rules, chapters 7851, 7853, and 7855, and parts 7849.0010 to 7849.0400; and any other requirements imposed by rule or statute. A filing under this section not rejected within 15 days of filing must be considered accepted as in substantial compliance with applicable filing requirements.

Subp. 8. Petition to intervene.

The commission shall entertain a petition to intervene until the matter is referred to the Office of Administrative Hearings for a contested case proceeding or until the commission issues a notice under part 7829.1200, subpart 3, stating its intention to decide the matter on the basis of an informal or expedited proceeding. Once a filing is referred for a contested case proceeding, the rules of the Office of Administrative Hearings shall control intervention rights.

Subp. 9. Public hearing.

If the commission decides to act on the application through an informal proceeding, the commission shall hold a public hearing designed to encourage members of the public to express their views on the application, as required under Minnesota Statutes, section 216B.243, subdivision 4. If the commission refers the application to the Office of Administrative Hearings for a contested case proceeding, the commission shall ensure that at least one public hearing is held.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

Posted:

August 21, 2007

7829.2550 NOTICE PLANS WHEN SEEKING CERTIFICATION OF HIGH-VOLTAGE TRANSMISSION LINES.

[This part is subject to the rulemaking proceeding in Commission Docket No. 12-1246, and not within the scope of this rulemaking proceeding.]

7829.2560 NOTICE PLANS WHEN SEEKING CERTIFICATION OF PIPELINES.

Subpart 1. Filings required, service requirements.

At least three months before filing a certificate of need application for any pipeline under chapter 7851, 7853, or 7855, the applicant shall file a proposed plan for providing notice to all persons reasonably likely to be affected by the proposed pipeline. Applicants shall serve their proposed plans on the following persons:

A. the Office of Energy Security of the Department of Commerce;

B. the Residential and Small Business Utilities Division of the Office of the Attorney General;
and

C. the Army Corps of Engineers.

Subp. 2. Procedural schedule, notice of procedural schedule.

Initial comments on proposed notice plans must be filed within 20 days of the date of filing. Reply comments must be filed within 20 days of the expiration of the initial comment period. Applicants shall include with the proposed notice plan a clear and conspicuous notice of these comment periods.

Subp. 3. Types of notice.

Proposed notice plans must include notice to the following persons by the method specified:

A. direct mail notice, based on county tax assessment rolls, to landowners reasonably likely to be affected by the proposed pipeline;

B. direct mail notice to all mailing addresses within the area reasonably likely to be affected by the proposed pipeline;

C. direct mail notice to tribal governments and to the governments of towns, statutory cities, home rule charter cities, and counties whose jurisdictions are reasonably likely to be affected by the proposed pipeline; and

D. newspaper notice to members of the public in areas reasonably likely to be affected by the proposed pipeline.

Subp. 4. Notice content.

Proposed notice plans must provide notice recipients with the following information:

A. a map showing the end points of the pipeline and existing related pipelines and related facilities in the area;

B. a description of general right-of-way requirements for a pipeline of the size and type proposed and a statement that the applicant intends to acquire property rights for the right-of-way that the proposed pipeline will require;

C. a notice that the pipeline cannot be constructed unless the commission certifies that it is needed;

D. the commission's mailing address, telephone number, and Web site;

E. a brief explanation of how to get on the mailing list for the commission's proceeding; and

F. a statement that requests for certification of pipelines are governed by Minnesota law, including specifically chapters 7851, 7853, and 7855 and Minnesota Statutes, section 216B.243.

Subp. 5. Supplementary notice.

The commission shall require supplementary notice to persons reasonably likely to be affected by route alternatives developed in the course of certification proceedings if it appears that those route alternatives are as likely to be certified as the proposed pipeline.

Subp. 6. Notice time frames.

The applicant shall implement the proposed notice plan within 30 days of its approval by the commission.

Subp. 7. Good faith sufficient.

The commission shall not deny a request for certification of a pipeline on grounds of defective notice if the applicant acted in good faith, in substantial compliance with the notice requirements of this part, and in substantial compliance with any commission orders issued under this part.

Subp. 8. Compliance filing.

The applicant shall submit a compliance filing within 60 days from the date of implementation of the approved notice plan. The filing must include a copy of the notice and a service list that includes the names and addresses of those persons to whom the notice was sent.

Statutory Authority:

MS s 216A.05; 216A.08

History:

35 SR 1530

Posted:

April 13, 2011

7829.2600 STAFF COMMENTS.

Written comments on a filing by commission staff must be made available to those persons on the service list at the same time they are provided to the commission. If commission staff recommend action not advocated by any party, all parties must be granted oral comment at the request of any party.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

Posted:

August 21, 2007

7829.2700 PROCEDURE AFTER ADMINISTRATIVE LAW JUDGE REPORT.

Subpart 1. Exceptions to administrative law judge's report.

Except in cases subject to statutory deadlines, parties shall file and serve on the other parties any exceptions to an administrative law judge's report within 20 days of its filing. In cases subject to statutory deadlines, exceptions must be filed and served within 15 days of the filing of the report.

Subp. 2. Replies to exceptions.

Except in cases subject to statutory deadlines, a party shall file and serve on all other parties any replies to exceptions within ten days of the due date for exceptions. In cases subject to statutory deadlines, replies are not permitted.

Subp. 3. Oral argument.

Parties must be granted an opportunity for oral argument before the commission as required under Minnesota Statutes, section 14.61.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

Posted:

August 21, 2007

7829.2800 GENERAL NOTICE REQUIREMENT.

Matters may come before the commission only on ten days notice to the parties and those persons on the official service list. Under exigent circumstances the executive secretary shall reduce the ten-day notice period.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

Posted:

August 21, 2007

7829.2900 DECISION AND ORDER.

The executive secretary shall serve a decision and order of the commission on all parties and participants in the proceeding on the official service list.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

Posted:

August 21, 2007

7829.3000 PETITION AFTER COMMISSION DECISION.

Subpart 1. Time for request.

A party or a person aggrieved and directly affected by a commission decision or order may file a petition for rehearing, amendment, vacation, reconsideration, or reargument within 20 days of the date the decision or order is served by the executive secretary.

Subp. 2. Content of request.

A petition for rehearing, amendment, vacation, reconsideration, or reargument must set forth specifically the grounds relied upon or errors claimed. A request for amendment must set forth the specific amendments desired and the reasons for the amendments.

Subp. 3. Service.

A petition for rehearing, amendment, vacation, reconsideration, or reargument, and an answer, reply, or comment, must be served on the parties and participants in the proceeding to which they relate.

Subp. 4. Answers.

Other parties to the proceeding shall file answers to a petition for rehearing, amendment, vacation, reconsideration, or reargument within ten days of service of the petition.

Subp. 5. Replies.

Replies are not permitted unless specifically authorized by the commission.

Subp. 6. Commission action.

The commission shall decide a petition for rehearing, amendment, vacation, reconsideration, or reargument with or without a hearing or oral argument. The commission may vacate or stay the order, or part of the order, that is the subject of the petition, pending action on the petition.

Subp. 7. Second petition not entertained.

A second petition for rehearing, amendment, vacation, reconsideration, or reargument of a commission decision or order by the same party or parties and upon the same grounds as a former petition that has been considered and denied, will not be entertained.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

Posted:

August 21, 2007

7829.3100 TIME PERIODS

Except for time periods set by statute, the commission may vary the time periods established by this chapter on its own motion or at the request of a person for good cause shown. The commission may delegate the authority to vary time periods to the executive secretary.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

Posted:

August 21, 2007

7829.3150 UNTIMELY FILINGS.

Subpart 1. When filings may be excluded.

On its own motion or at the request of any party or participant, the commission may exclude from the record a document not filed within a time period established by rule or commission order if the commission determines that the value of the document to the commission's deliberative process is outweighed by prejudice to a party, participant, or the public interest.

Subp. 2. Required statement.

A person filing a document not within a time period established by rule, notice, order, or statute shall include a statement explaining why the filing was untimely and why it should be considered by the commission.

Statutory Authority:

MS s 216A.05

7829.3200 OTHER VARIANCES.

Subpart 1. When granted.

The commission shall grant a variance to its rules when it determines that the following requirements are met:

- A. enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- B. granting the variance would not adversely affect the public interest; and
- C. granting the variance would not conflict with standards imposed by law.

Subp. 2. Conditions.

A variance may be granted contingent upon compliance with conditions imposed by the commission.

Subp. 3. Duration.

Unless the commission orders otherwise, variances automatically expire in one year. They may be revoked sooner due to changes in circumstances or due to failure to comply with requirements imposed as a condition of receiving a variance.

Statutory Authority:

MS s 216A.05

History:

19 SR 116

Posted:

August 21, 2007