ALABAMA PUBLIC SERVICE COMMISSION
ADMINISTRATIVE CODE

CHAPTER 770-X-4
RULES OF PRACTICE

TABLE OF CONTENTS

770-X-4-.01	Scope And Repealer
770-X-4-.02	Rulemaking Proceedings
770-X-4-.03	Definitions
770-X-4-.04	Filing And Service
770-X-4-.05	Representation
770-X-4-.06	Forms
770-X-4-.07	Sessions
770-X-4-.08	Parties
770-X-4-.09	Complaints
770-X-4-.10	Applications
770-X-4-.11	Pleading And Answers
770-X-4-.12	Amendments
770-X-4-.13	Reparation Statements
770-X-4-.14	Extensions Of Time
770-X-4-.15	Hearings
770-X-4-.16	Discovery
770-X-4-.17	Evidence
770-X-4-.18	Witnesses And Subpoenas
770-X-4-.19	Briefs And Oral Arguments
770-X-4-.20	Filing Exceptions To Reports Of Commissioners Or Administrative Law Judges
770-X-4-.21	Applications For Reconsideration, Rehearing Or Modifications Of Order
770-X-4-.22	Declaratory Rulings
770-X-4-.23	Transcripts Of Testimony
770-X-4-.24	Corrections Of Transcripts
770-X-4-.25	Ex Parte Communications
770-X-4-.26	Monthly Commission Meetings
770-X-4-.27	Request for Documents

770-X-4-.01 Scope And Repealer.

These rules shall govern all proceedings before the Alabama Public Service Commission, except rulemaking proceedings, and shall supersede any and all rules of practice previously adopted or effective.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §37-1-38.
History: Effective April 1980. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the

Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.02 Rulemaking Proceedings.

In the event a rulemaking proceeding is instituted by the Commission to issue a policy statement regarding matters within its jurisdiction or to issue, interpret, revise, amend, or repeal rules, resolutions or practices adopted by the Commission, the procedure to be employed for the taking of evidence or the receipt of views and comments will be designated by the Commission.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§37-1-32, 37-1-38.
History: Effective April 1980. Amended January 1993. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.03 Definitions.

(1) Unless the context otherwise requires, in these rules:

(a) The term "person" or "party" includes an individual, firm, partnership, association, corporation, receiver, trustee, or group, and includes the plural as well as the singular.

(b) The term "Commission" means the Alabama Public Service Commission.

(c) The term "Commissioner" means one of the members of the Alabama Public Service Commission.

Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §37-1-38.
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770-X-4-.04 Filing And Service.

(1) Filing

(a) Filing is accomplished by delivery of a document to the Secretary of the Commission, or an employee of his office, in person, or by United States Mail, Postage Prepaid, addressed to the Commission at P.O. Box 304260, Montgomery, Alabama, 36130, or by courier to RSA Union Building, 100 North Union

Street, Room 850, Montgomery, Alabama, 36104, except that the Commission or the presiding Commissioner or Administrative Law Judge may permit a document to be filed with them during a hearing. Filing is effective only upon receipt by the Commission.

(b) Unless directed otherwise in these rules, an original and ten (10) copies of all filings, including petitions, applications, prepared testimony and exhibits by anyone in any proceeding, shall be filed in the Secretary's Office as stated in 4(A)(1), supra, and show service thereof upon each party, by name and address, to the proceeding.

(c) As an alternative to filing pursuant to subparts (1)(a) and (1)(b) above, documents may be filed electronically using links available on the Commission’s website and complying with the following procedures:

(i) To be considered a valid filing, all documents shall be in text-searchable public document format (pfd).

(ii) Documents electronically filed shall be no larger than 40 MB in size. Any document larger than 40 MB must be broken into separate parts with no part being larger than 40 MB.

(iii) A hard-copy of all electronically-filed documents shall be filed with the Secretary of the Commission in accordance with subpart (1)(a).

(iv) Any document filed electronically, in compliance with this procedure, is deemed received by the Commission on the day it is received electronically, with the end of the day being 11:59 PM Central Time, as long as the hard copy of the filing is received by the Secretary of the Commission by 5:00 PM Central Time on the next business day. In the event the hard-copy of the filing is not received on the next business day, the filing will be deemed as received on the date that the hard-copy is received by the Secretary of the Commission.

(v) Electronic signatures, indicated by “s/” followed by the name of the filer, shall be allowed for documents filed through the electronic filing process, unless a wet signature or other authentication is specifically required by law or other regulation.

(d) Where the circumstances so dictate, a tentative schedule for all parties will be set for the pre-filing of testimony and exhibits. Such schedules will, however, be subject to change by the Commission, or the presiding Commissioner or Administrative Law Judge.

(2) Service: When required.

(a) Every order of the Commission, every report and recommended order of an Administrative Law Judge and every pleading, application, petition, complaint, or other initial filing shall be served by the Commission upon each of the parties with, where applicable, notice of the time and place for hearing the same.

(3) Service: How made.

(a) Service upon a party represented by an attorney shall be made upon the attorney and such service will be deemed service upon a party. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address.

(4) Subsequent Filings

(a) Answers, petitions for hearing, motions, notices and all other documents filed subsequent to the original complaint, application or petition in proceedings pending before the Commission upon its formal docket must, when filed or tendered for filing with the Commission, show service thereof upon each party, by name and address, to the proceeding.

(5) Filing and Service: Proposed changes in rates, rules and regulations.

(a) Upon the filing of protest and/or petitions for investigation and suspension relating to proposed changes in rates and charges or rules and regulations, a copy of such protest or petition shall be served upon the carrier or utility or the publishing agent of the local or agency tariff proposing such changes.

(b) Such protest or petitions must be filed with the Commission at least seven (7) days prior to the scheduled effective date of the tariff or supplements proposing such changes in rates and charges or rules and regulations.

Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §37-1-38.
History: Effective April 1980. Amended January 1993. Amended November 1999. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7. Amended April 20, 2021. Filed with LRS May 28, 2021; Published June 30, 2021. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on May 28, 2021, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.05 Representation.

(1) Any person or party may appear before the Commission on his, her, or its own behalf in any matter pending before the Commission. Any member of a partnership which is party to any proceeding may appear for the partnership and any bona fide officer or full-time employee of a corporation, association, or of an individual may appear for such corporation, association or individual.

(2) Any person or party not represented as set out in section (A) immediately above must be represented in matters pending before the Commission by an attorney or counselor at law who is a licensed member in good standing of the Alabama State Bar. A person or party may be represented before the Commission pro hac vice by an attorney or counselor at law who is not a licensed member in good standing of the Alabama State Bar (hereinafter called a foreign attorney) provided said foreign attorney is: currently a member in good standing of the bar of another state, the District of Columbia, or other United States jurisdictions; is familiar with the ethics, principles, practices, customs and usages of the legal profession in Alabama; and otherwise complies with all requirements of Rule VII of the Rules Governing Admission to the Alabama State Bar including, but not limited to, the association of local counsel and the submission of a verified application in the form prescribed. The Commission or the presiding Commissioner or Administrative Law Judge shall enter an order granting or denying all such pro hac vice applications submitted by foreign attorneys.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§37-1-38, 37-1-88.
History: Effective April 1980. Amended January 1993. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.06 Forms.

(1) Application forms for parties seeking authority to operate as a motor carrier, radio common carrier, reseller, interexchange carrier, alternate operator service provider, call aggregator, shared tenant service provider or COCOT under Title 37, Code of Ala. 1975, as amended, generally have been prescribed or approved by the Commission and will be furnished to interested parties upon request, and such forms contain instructions for filing such applications. They are, therefore, not set forth herein.

(2) Otherwise, no specific form is required or prescribed, but upon application, the Commission will, when it can reasonably do so, furnish any party copies of filings in previous, similar cases. Every application, complaint, answer, pleading, or petition must be in writing and conform with the provisions of Title 37, Code of Ala. 1975, and the General Orders and/or rules of the Commission concerning the authority requested or the relief desired.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§37-1-32, 37-1-38.
History: Effective April 1980. Amended January 1993. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.07 Sessions.

(1) The offices of the Commission, 100 North Union Street, Montgomery, Alabama, 36104, will be open for the transaction of business each weekday, except holidays and Saturdays and Sundays, from 8 a.m. to 5 p.m.

(2) Hearings before the Commission will be held in the Main Hearing Room, 9th Floor, Room 900 at 100 North Union Street, Montgomery, Alabama, 36104.

(3) Special hearings of the Commission will be held at other places and times at the discretion of the Commission. Hearings before individual Commissioners or Administrative Law Judges will be held as the Commission may direct.

(4) The Commission shall, in writing, set a time certain for all hearings, giving proper notice thereof to all known parties.

(5) All hearings before the Commission or a member thereof, or an Administrative Law Judge shall be open to the public.

(6) Contemptuous conduct by any person appearing at a hearing is ground for his exclusion from the hearing by the Commission or the presiding Commissioner or Administrative Law Judge.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§37-1-8, 37-1-38, 37-1-63, 37-1-85, 37-1-86, 37-1-89, 37-3-28.
History: Effective April 1980. Amended January 1993. Amended November 1999. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.08 Parties.

(1) The parties to proceedings before the Commission will be known as complainants, defendants, intervenors, protestants, respondents, applicants, and petitioners according to the nature of the proceeding and the relationship thereto. Any individual may appear for himself and any member of a partnership which is a party to any proceeding may appear for the partnership. A bona fide officer or a full-time employee of a corporation, association, or an individual may appear for such corporation, association, or individual. A party can be heard in person or by its attorney of record. Representatives of the Commission's staff or persons appearing at the request of the Commission are entitled to appear in any proceeding before the Commission without having been designated as one of the above-mentioned parties.

(2)(a) In complaint cases, the party who complains to the Commission of anything done or omitted to be done in violation of law, orders, or rules or regulations of the Commission is styled the complainant. The party against whom the complaint is made is styled the defendant. Two or more complainants may join in one complaint if the respective causes of action are against the same defendant or defendants and involve substantially the same alleged violation and a like state of facts.

(b) If complaint is made in respect of through transportation by continuous carriage or shipment, all transportation companies, to which the law applies, participating therein shall be made defendants.

(c) If complaint is made of classification ratings or provisions, rates, fares, charges, regulations, practices, or services of more than one transportation company, motor carrier or utility, all transportation companies, motor carriers or utilities against which an order is sought shall be made defendants.

(d) The receiver or trustee in charge of the affairs or business of a transportation company or utility shall be made a defendant in any complaint made against it.

(e) In investigation proceedings instituted by the Commission upon its own motion, the parties designated therein are styled respondents; and those on whose behalf the investigation proceedings are instituted are styled protestants.

(f) In applications for relief from any provisions of law, orders, rules or regulations of the Commission, or for operating authority, parties on whose behalf the application

is made including the transferor and the transferee in a transfer application are styled applicants.

(g) Others seeking relief or the exercise of the Commission's authority are styled petitioners.

(3) Petitioners permitted to intervene, as hereinafter provided, are styled intervenors. Anyone entitled under the law to complain to the Commission may petition for leave to intervene in any pending proceeding prior to or at the time it is called for hearing, but not after, except for good cause shown.[1] Petitions shall set forth the grounds of their proposed intervention; the position and interest of the petitioner in the proceeding; and if affirmative relief is sought, should conform to requirements for a formal complaint. Leave will not be granted except on allegations reasonably pertinent to the issues already present and which do not unduly broaden them. If leave is granted, the petitioner thereby becomes an intervenor and a party to the proceeding. Sufficient copies of the petition must be furnished for service on all parties to this proceeding and to allow ten (10) copies retained by the Commission and its staff. If affirmative relief is sought, petitions for intervention should be filed in time to permit lawful service upon the proper parties.

(4) Protestants to Motor Carrier Applications. Any person opposed to a motor carrier application seeking operating authority, or an amendment to existing operating authority, assigned for oral hearing may become a party-Protestant at the oral hearing provided he has notified the Applicant and the Commission of his intention to protest the application. Such notification shall be made by letter, telegram, or facsimile transmission and must reach the applicant's representative or attorney (or applicant if no representative or attorney is known to him) and the Secretary of the commission’s office by 5 p.m., Central Time, at least seven (7) days prior to the date of the hearing. One dated copy of such notification simultaneously shall be mailed to the Commission for each application protestant party is opposed to. No person who fails to notify the applicant, or the applicant's attorney or representative, and the Commission of his intention to protest in the

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[1] This rule does not apply to party protestants to applications for operating authority under the Alabama Motor Carrier Act, such parties are governed by Rule 8 (D) Infra.

above-prescribed manner will be permitted to intervene in a proceeding except upon a showing of good cause. Such showing of good cause to intervene shall be made in a petition submitted at or before the hearing, and must demonstrate to the Commission or the presiding Commissioner or Administrative Law Judge that the

moving party's interest would not be adequately and reasonably represented by the parties-protestants.

(5) Content of Protests. The notification in Section (D), above, shall include a statement of the protestant's interest in the application and, as a minimum, a brief statement of Protestant's authority that supports the protest.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§37-1-38, 37-1-86, 37-1-87, 37-1-89, 37-3-9, 37-3-10 37-3-11.
History: Effective April 1980. Amended June 1993. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.09 Complaints.

(1)(a) Complaints may be either informal (see Rule 9 (B) below) or formal. Formal complaints shall be in writing and contain the names of all parties Complainant and Defendant in full and the address of each.

(b) Formal complaints shall be so drawn so as to fully and completely advise the Defendant or the Defendants and the Commission wherein the provision of the law, rules or regulations have been or will be violated, The complaint shall also state the relief sought.

(c) Each formal complaint and answer thereto, must be accompanied by copies in sufficient numbers to enable the Commission to serve one (1) copy upon each Defendant and retain ten (10) copies for use of the Commission and its staff.

(2) Informal complaints may be made in any manner which states specifically the cause of complaint. Matters thus presented are, if their nature warrants it, taken up by communication with the parties affected in an endeavor to bring about satisfaction of the complaint without formal hearing. Many complaints are satisfactorily adjusted by this procedure, and it is recommended. When it appears that complaints cannot be adjusted by informal negotiation, Complainants will be notified and the matter closed. Formal complaints may then be filed if Complainants so desire.

(3) When any claim or complaint against a transportation company seeking reparation is filed with the Commission, notice and a copy thereof will be promptly furnished to each Defendant by the Commission. Unless such claim or complaint is adjusted within three (3) months from the filing thereof the same may be set down for hearing or dismissed on motion of either party.

(4) All formal complaints must be in writing, signed by the party or his attorney of record.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§37-1-38, 37-1-83, 37-1-84, 37-3-7(8).
History: Effective April 1980. Amended January 1993. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.10 Applications.

(1) Applications for operating authority or an amendment or transfer of operating authority under the Alabama Motor Carrier Act are perfected by filing the appropriate form, available from the Commission, in duplicate, complete with the requested appendices and the required fee. Each application should clearly state the commodity description sought and the geographic area to be served by origination and destination points, territory or routes. Contract carrier applications must be accompanied by one or more fully executed contract(s). Applications thus filed will be assigned for hearing on the next available monthly docket. The application filing deadline for each month's docket is shown on the previous month's docket, and is usually the last Friday of the month. Motor carrier applications are normally heard the last week of each month except July and December.

(2) If the use of prepared statements is desired by any party, such prepared statements, to be submitted as part or all of the testimony of any witness in a motor carrier hearing, will be forwarded at least 48 hours (two working days) prior to the hearing to the opposing party's attorney or representative and prefiled with this Commission within the same 48-hour period unless a schedule setting more specific due dates is proposed by the Commission or presiding Commissioner or Administrative Law Judge.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §37-1-38.
History: Effective April 1980. Amended January 1993. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.11 Pleading And Answers.

(1) Each person against whom a complaint is directed must plead or answer at least five days prior to the date set for hearing, but no later than 30 days from the filing of the complaint. All answers must admit or deny the truth of all material allegations

of the complaint and may set forth any additional facts or matters material to the issue or in bar or abatement of the proceeding. Averments not denied or confessed and avoided shall be taken as admitted. If the person is without knowledge, he shall so state and such statements shall operate as a denial. If the person shall make satisfaction to the complainant before the cause comes on for hearing or before same is finally disposed of by the Commission, he shall obtain from the complainant a written acknowledgment of such satisfaction setting forth the terms and conditions thereof and file the same with the Commission.

(2) Where more than one person is involved in a complaint, they may make joint answers thereto.

(3) If a defendant in a complaint case seeks affirmative relief, a counterclaim may be filed.

(4) The original answer, counterclaim, or other pleading, with ten (10) copies, must be filed with the Commission, 100 North Union Street, Montgomery, Alabama, 36104, and at the same time, a copy of said answer to pleading, or a counterclaim shall be served by the defendant making such answer, counterclaim, or pleading by U.S. Mail, Postage Prepaid, upon each complainant or his attorney of record. The defendant or his attorney of record shall certify to the Commission that said service has been made.

(5) All pleadings, answers and counterclaims must be in writing signed by the party or his attorney of record.

(6) The Commission, or the presiding Commissioner or Administrative Law Judge shall entertain all motions and pleadings made or filed in any proceeding which are not specifically covered by these rules as may in their or its discretion be deemed proper, except an Administrative Law Judge cannot grant a motion to dismiss any proceeding. All such motions shall be in writing and shall set forth the relief sought and shall be served as any other pleading or answer, except those offered during a hearing.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§37-1-38, 37-1-63, 37-1-86, 37-1-89, 37-3-28.
History: Effective April 1980. Amended January 1993. Amended November, 1999. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.12 Amendments.

(1) Amendments to any complaint, application, petition, pleading or answer will be allowed or refused by the Commission or the

presiding Commissioner or Administrative Law Judge at their discretion and upon such terms as they may impose.

(2) All amendments shall be in writing on a separate piece of paper and shall be filed with the Commission.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§37-1-38, 37-1-63, 37-1-86, 37-1-89, 37-3-28.
History: Effective April 1980. Amended January 1993. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.13 Reparation Statements.

When the Commission finds that reparation is due, but that the exact amount cannot be ascertained upon the record before it, the complainant or petitioner shall prepare a statement, showing details of the shipment on which reparation is claimed. The statement should not include any shipment not covered by the Commission's findings, or any shipment on which the complaint or petition was not filed with the Commission within the statutory period. The statement must show that a copy thereof has been submitted to the defendant or defendants, respondent or respondents affected for verification. When such statement has been properly verified the Commission will consider the entry of an order for reparation.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§37-1-38, 37-2-19.
History: Effective April 1980. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.14 Extensions Of Time.

(1) Postponements, continuances and extensions of time may be granted upon application of any party to a proceeding at the discretion of the Commission. However, upon the third such application by the applicant the proceeding shall be dismissed, except when made under extraordinary circumstances, such circumstances to be determined by the Commission.

(a) Any party requesting postponement or dismissal without allowance of sufficient time for notification of the court reporter assigned to the hearing shall be responsible for said reporter's appearance fee.

(b) Applications for extension of time should be made in writing no later than 48 hours before the time set for hearing or the deadline for filing pleadings, exceptions, or replies in order to properly notify all concerned parties. Such applications should specify therein the requested extension date.

(c) The failure of an applicant, petitioner or complainant to appear at a hearing will result in dismissal of the complaint, application or petition unless good cause is shown.

Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§37-1-38, 37-1-63, 37-1-86, 37-1-89, 37-3-28.
History: Effective April 1980. Amended January 1993. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.15 Hearings.

(1) In any pending matter, the Commission or the presiding Commissioner or the Administrative Law Judge may, in their discretion, conduct a prehearing conference to consider any matters that might aid in the disposition of the proceeding.

(2) At hearings on formal complaints or petitions, the complainant or petitioner, as the case may be, shall open and close. At hearings on applications for any relief under the law, the applicant shall open and close. In hearings of several proceedings upon a consolidated record, the Commission or presiding Commissioner or Administrative Law Judge shall designate who shall open and close. At hearings under citations issued by the Commission, upon its own motion, respondent shall open and close. Intervenors shall follow the party or parties in whose behalf the intervention is made, and where the intervention is not in support of either original party, the Commission or presiding Commissioner or Administrative Law Judge shall designate at what stage such intervenors shall be heard.

(3) Witnesses shall be sworn and examined orally before the Commission or presiding Commissioner or Administrative Law Judge.

(4) Depositions may be taken in the manner prescribed by law and made a part of the record.

(5) Applicant, complainant or petitioner must, except as otherwise provided by law, establish the facts alleged by him as the basis for the relief sought, unless the party against which the complaint or petition is directed admits the same. All facts alleged in answers or other pleadings must be proved by the party making such answers unless admitted by the complainants or

petitioners. In case of failure to plead or answer in any proceeding upon complaint or petition, the Commission may take such proof of the facts as may be deemed proper, and make such order thereon as the facts and circumstances of the case require.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§37-1-38, 37-1-63, 37-1-86, 37-1-89, 37-3-28.
History: Effective April 1980. Amended January 1993. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.16 Discovery.

Requests for discovery shall be sent to the party from whom discovery is requested and, simultaneously, a copy of the same shall be forwarded to the Commission. All requests shall be made within a reasonable period of time from the filing of testimony and a reasonable time before the hearing. Discovery will not be compelled in motor carrier application proceedings.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§37-1-38, 37-1-63, 37-1-86, 37-1-89, 37-3-28.
History: Effective April 1980. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.17 Evidence.

(1) The Commission will generally follow the established rules of evidence applicable to civil actions at law and will depart therefrom only when it appears that such departure will preserve the substantial rights of the parties.

(2) All testimony except as otherwise directed must be given on oath or affirmation of the witness.

(3) In lieu of oral examination, parties may, at the discretion of the Commission or the presiding Commissioner or Administrative Law Judge, present the direct or redirect examination of a witness through prefiled testimony. Such prefiled testimony shall be in written, question and answer form and shall be filed at least 10 calendar days prior to the hearing unless directed otherwise by the Commission or the presiding Commissioner or Administrative Law Judge. At the hearing, such prefiled testimony may, upon motion, be incorporated into the record as if the questions had been asked of the witness, and the answers had been given by the witness orally, provided such testimony has been properly identified and

authenticated under oath by the witness for whom it is presented and further provided that such witness is agreeable to submitting to cross-examination.

(4) Cross-examinations that are purely prejudicial or designed to embarrass a witness shall not be allowed. This type of examination will be interrupted and not permitted. The Commission reserves the right to limit the number of witnesses under testimony which may be merely cumulative.

(5) No person will be permitted to make a statement of fact or present any argument pro or con in a formal hearing before the Commission, unless the person will submit to an oath or affirmation and unless that person is agreeable to submitting to cross-examination. The foregoing, of course, does not apply to duly authorized attorneys-at-1aw in presenting arguments to the Commission.

(6) Except as to reports and records made and preserved in the Commission in its regular course of business, the Commission will not ordinarily admit letters or other writings in evidence unless the signers thereof are available at the hearing for cross-examination. There is no way for the Commission to refuse to receive such writings when sent through the mails or otherwise, but they will not be admitted as evidence or in any other manner made a part of a formal record. Likewise, resolutions adopted by the governing bodies of cities, towns, counties or other municipal corporations, chambers of commerce, boards of trade or other civic organizations shall not be admitted in evidence unless the president, secretary or other proper officer who was present at the meeting when the resolution was adopted and heard all discussion leading up to the adoption of same is available at the hearing for cross-examination. Any statements of fact contained in such resolutions shall not be deemed proof of those facts but shall be subject to proof.

(7) Ordinarily in a formal proceeding, the Commission will not permit the incorporation of all or part of a record previously made unless the party offering such previous record produces certified copies thereof for introduction in evidence in sufficient number to supply the record then being made and all interested parties with a copy thereof. The Commission will, when requested to do so, take official notice of its previous decisions based upon prior record referred to, which should suffice in most instances. Likewise, the Commission generally will not permit the introduction of written testimony of any kind unless sufficient copies are available to parties adversely interested.

(8) Exhibits or statements tendered for the purpose of showing transit times, revenue derived or subject to loss or diversion and traffic studies must be supported by underlying documents compiled from business records to be admissible into the record.
Author: Alabama Public Service Commission

Statutory Authority: Code of Ala. 1975, §§37-1-38, 37-1-63, 37-1-86, 37-1-89, 37-3-28.
History: Effective April,1980. Amended January 1993. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.18 Witnesses And Subpoenas.

(1) A Commissioner or any Administrative Law Judge appointed by the Commission may require the attendance of witnesses or require any person, firm or corporation subject to its jurisdiction to produce at such reasonable time and place to be designated within the State, books, records, documents or accounts kept by such persons, firms or corporations either within or without the State of Alabama. Subpoenas for the attendance of witnesses or for the production of books, records, documents, or accounts (unless directed to issue by the Commission or the presiding Commissioner or Administrative Law Judge thereof ex mero motu) will only be issued upon application in writing, and when it is sought to compel witnesses, that are not parties to the proceedings, to produce such documentary evidence, the application must be sworn to and must specify as nearly as may be the books, records, documents, or accounts desired, and that the same are in possession of witness or under his control, and that they contain evidence material to the issue, in the belief of the Applicant.

(2) A witness who is summoned and responds thereto is entitled to the same fee, including mileage, on the same basis as witnesses in Civil Suits in Courts of Record of Alabama, such fee to be paid by the party at whose instance the testimony is taken at the time the subpoena is served.

(3) In case of failure to comply with a subpoena or order directing discovery, the Commission may invoke the aid of any appropriate court of this state to require compliance, and the Commission may issue such orders as are just.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§37-1-38, 37-1-63, 37-1-86, 37-1-89, 37-1-91, 37-1-92, 37-1-93.
History: Effective April 1980. Amended January 1993. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.19 Briefs And Oral Arguments.

(1) Briefs or memoranda shall be filed at the discretion of the parties or when requested by the Commission or the presiding

Commissioner or Administrative Law Judge. Briefs must be printed or typewritten and should include a statement of fact, proposition or points of law together with the authorities relied on, an argument of the proposition or points of law and requests for specific findings of facts.

(2) Exhibits should not be reproduced in a brief, but may, if desired, be reproduced in an appendix to the brief. Notice of intention of filing briefs shall be given before the hearing closes. When the briefs are filed with the Commission they should be accompanied by certificate of service on opposite parties of record.

(3) Oral arguments before the Commission may be granted at the discretion of the Commission, or the presiding Commissioner or the Administrative Law Judge upon the request of the parties made before or at the close of the hearing in any proceeding.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§37-1-38, 37-1-63, 37-1-86, 37-1-89, 37-3-28.
History: Effective April 1980. Amended January 1993. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.20 Filing Exceptions To Reports Of Commissioners Or Administrative Law Judges.

When a report and recommended order is served on the parties to motor carrier proceedings pursuant to Section 37-3-9, Code of Ala. 1975, the due date for exceptions shall be twenty (20) days from the date of service shown on such report and recommended order. Exceptions shall be in writing and set forth specifically any alleged errors in fact or in law or any erroneous conclusions therefore. Replies to such exceptions may be filed by any interested party within twenty (20) days from the filing of the exceptions. The Commission or the presiding Commissioner or Administrative Law Judge, at their discretion, may extend the due date for exceptions and replies to exceptions, provided the request for such an extension is made in accordance with Rule 14 herein. The original and four (4) copies of all exceptions and replies shall be filed with the Commission.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§37-1-38, 37-3-9.
History: Effective April 1980. Amended January 1993. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.21 Applications For Reconsideration, Rehearing Or Modifications Of Order.

(1) Applications for rehearing or reconsideration must be made by petition, stating specifically the grounds relied upon, filed with the Commission and served upon all parties or their attorneys of record who appeared at the hearing, or oral argument if had, or on brief. Such petitions must be accompanied by certificates of service, either by United States Mail or in person, on the other parties of record. If any such application is based upon matters of law, the Applicant must state fully the legal propositions involved and cite the authorities therefore. If new evidence is desired to be offered upon a rehearing, the nature and purpose of the evidence must be briefly stated, and it must not appear to be merely cumulative. If an application seeks the modification of an order of the Commission, it must show in what particulars a modification is desired. The Commission will allow ten (10) days time from the date the application is filed with the Commission to other parties of record in which to file an answer in writing to such application.

(2) After the expiration of ten (10) days, the Commission will give consideration to such applications and any answers thereto that may be filed, and will make such order or orders as appear to be warranted; but if the Commission finds that a hearing for the introduction of additional testimony is justified, it will set the matter down for such purpose, giving notice thereof to the parties of record. After such hearing the Commission will give consideration to the record in the light of such additional testimony and render its decision and order thereon.

(3) All applications for rehearing or reconsideration must be filed with the Commission within thirty (30) days from the date of the final action on the matter for which rehearing or reconsideration is sought, unless an extension is granted by the Commission.

Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§37-1-38, 37-1-63, 37-1-86, 37-1-89, 37-3-28.
History: Effective April 1980. Amended January 1993. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.22 Declaratory Rulings.

The Commission may, upon petition by any party substantially affected, issue a declaratory ruling or order with respect to the

jurisdiction of the Commission, the applicability to any person, property or state of facts of any order or rule of the Commission, or with respect to the meaning and scope of any order or rule of the Commission. Such petitions shall be in writing and shall state facts sufficient to show that petitioner is substantially affected by such order or rule. Petitions shall be filed with the Commission in accordance with Rule 4, supra. Upon receipt of such a petition, the Commission may set a date and time for the taking of oral argument or written comments.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§37-1-38, 37-1-63, 37-1-86, 37-1-89, 37-3-28.
History: Effective April 1980. Amended January 1993. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.23 Transcripts Of Testimony.

The Commission does not furnish a copy of the transcript of testimony to any party in any proceeding, but copies may be obtained by any party of record upon application to the official reporters of the Commission, and the payment of the established charge therefore.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§37-1-38, 37-1-86, 37-1-89, 37-1-102, 37-3-28.
History: Effective April 1980. Amended January 1993. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.24 Corrections Of Transcripts.

Any party to any formal proceeding before the Commission who detects a material error in the written transcript of testimony, and desires such error to be corrected, may file with the Commission, in writing, a detailed proposed correction of such error, serving a copy of such writing on all other parties to the proceeding. Such proposed correction must be filed with the Commission before the expiration of the time for certifying the record to the Court in cases where an appeal is taken of the final action in the proceedings involved, and within sixty (60) days from the date of the final order in the proceeding involved in all other cases, unless otherwise ordered by the Commission. Upon receipt of any such proposed correction, the Secretary of the Commission will forthwith serve a copy thereof upon the official reporter who prepared such transcript. Within ten (10) days after the filing of such proposed correction, any other interested party

may file, in writing, a reply in duplicate giving his reasons why such correction should not be made. If no such reply is made within the time prescribed, then and in that event the proposed correction will be considered proper and the transcript will be considered as having been corrected accordingly. If, on the other hand, within the time prescribed one of the parties does file such a reply, then and in that event the Administrative Law Judge or Commissioner presiding during the taking of the testimony in the proceeding in question shall decide whether or not such proposed correction will be allowed and shall make his decision known in writing to all the parties of record in the proceeding in question. Any such ruling made by the presiding Administrative Law Judge or Commissioner shall be without prejudice to any party taking issue with such ruling in any appeal of the final action in the proceeding involved. This rule and any action taken there under shall be without prejudice to corrections in the Appeals Court under such conditions as may be prescribed by the court. This rule shall not be used to change in any respect any testimony offered at the hearing, but is solely for the purpose of correcting material errors where such errors exist.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§37-1-38, 37-1-63, 37-1-86, 37-1-89, 37-3-28.
History: Effective April 1980. Amended January 1993. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.25 Ex Parte Communications.

Parties or their representatives in a contested issue or proceeding which has been the subject of a formal public and open hearing or in a proceeding which has been set for hearing shall not communicate, directly or indirectly, in connection with any issue of fact or law in that contested case, issue or proceeding with any Commissioner, Administrative Law Judge or other individual assigned to render a proposed order or final decision or to make findings of fact and conclusions of law in that contested case, issue or proceeding except upon notice and opportunity for all parties to participate and none of the Commissioners or Administrative Law Judges will allow ex parte argument to be made concerning such case, issue or proceeding.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §37-1-38.
History: Effective April 1980. Amended January 1993. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.26 Monthly Commission Meetings.

(1) Monthly business meetings of the Commission are normally held the first Tuesday of each month and at other times as may be necessary, unless such Monday constitutes a holiday. All matters pending before the Commission, which are ripe for decision or discussion at that time, are brought before the Commissioners each month. The Commission or any Commissioner may introduce matters on its or their own motion and each staff division of the Commission may present any matter appropriate for timely review and/or decision. (Filings or matters for disposition received less than two weeks before a Commission meeting may be held for staff review until the next Commission meeting.) Arguments or evidence will not be received from a party or the public at this time. Unless specifically directed and properly noticed otherwise, such business meetings are held at the offices of the Commission at the RSA Union Building, 100 North Union Street, Montgomery, Alabama, 36104, and are open to the public.

(2) If a utility files a matter less than two weeks before a scheduled Commission meeting, for consideration at that meeting, the utility shall certify in writing that it has physically delivered a copy of said filing to the Attorney General's office the same day of filing at the Commission. Urgent matters may be filed no less than five (5) business days before a scheduled Commission meeting. Any responsive filing of the Attorney General's office shall be made at least three (3) business days before the Commission meeting, and the Attorney General's office shall certify in writing that it has physically delivered a copy of said filing to the utility.

"Physically delivered a copy," as used in this subsection, includes delivery by facsimile transmission.
Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§ 37-1-8, 37-1-38.
History: Effective April 1980. Amended January 1993. Amended November 1999. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

770-X-4-.27 Request for Documents.

(1) Most of the books, records, studies, reports and other documents of the Commission are public record, and may be reviewed at Commission offices between 8:00 a.m. and 5:00 p.m., except Saturdays, Sundays, and holidays. Records located in the State Archives must be viewed in that location. All requests for

documents must be reasonable and are subject to the demands of other business Commission employees.

(2) Documents, including internal memoranda and reports prepared by or in the possession of the Commission's employees as a result of an investigation, examination or inspection, are not public record and, therefore, are protected by Section 37-1-13, Code, Section 37-3-25(d), Code, or by other provisions of law. These documents will be released only as authorized in writing by the Commission or a judge of a court with appropriate jurisdiction.

(3) Employees of the Commission are authorized to release protected documents to representatives of the Attorney General, pursuant to Section 37-1-16, Code, upon presentment of a completed Form 27.

(4) Request for Commission documents or information that shows a copy has been served on the affected utility (s). Information relating to an active proceeding must be procured through the regular processes for hearings. Utility data that is subject to a proprietary agreement between the Commission and a utility shall be retrieved directly from the utility by the Attorney General.

(5) A person dissatisfied with the response to a request for access to Commission documents should contact the Legal Division of the Commission's staff for assistance.

FOR COMMISSION USE ONLY:
Date request received_____
Date information made available_____
Date obtained_____

FORM 27 - RULE 27

To be filed with the Secretary of the
Alabama Public Service Commission*

REQUEST FOR COMMISSION DOCUMENTS OR INFORMATION

_____

ORGANIZATION REQUESTING INFORMATION

_____

INDIVIDUAL

_____

ADDRESS

_____

_____

TELEPHONE

INFORMATION REQUESTED (Give detailed description and docket number)

_____
_____
_____

(If needed attach additional page(s)

DIVISION REQUESTED TO PROVIDE INFORMATION:

Telecommunications _____ Legal_____

Energy _____ Advisory_____

Transportation _____

PHOTOCOPY REQUEST:

The undersigned acknowledges responsibility for return and/or reproduction of the following documents:

_____

_____

Signed _____

_____

*A copy of this document shall be served simultaneously on the affected utility(s).

Author: Alabama Public Service Commission
Statutory Authority: Code of Ala. 1975, §§37-1-13, 37-1-38, 37-1-62.
History: Effective November 1999. Filed with LRS February 5, 2013. Filed for Codification in the Alabama Administrative Code by the Alabama Public Service Commission on February 5, 2013, pursuant to Code of Ala. 1975, §41-22-7.

The Alabama Public Service Commission does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.