



## Notice of Intent to Adopt Rules

A copy of the proposed rules may be obtained at <http://rules.wyo.gov>

Revised July 2019

<b>1. General Information</b>			
a. Agency/Board Name* <b>Public Service Commission</b>			
b. Agency/Board Address <b>2515 Warren Ave., Suite 300</b>		c. City <b>Cheyenne</b>	d. Zip Code <b>82002</b>
e. Name of Agency Liaison <b>John S. Burbridge</b>		f. Agency Liaison Telephone Number <b>307-777-7427</b>	
g. Agency Liaison Email Address <b>john.burbridge@wyo.gov</b>			
h. Date of Public Notice <b>February 18, 2020</b>		i. Comment Period End Date <b>April 10, 2020</b>	
j. Public Comment URL or Email Address: <b>john.burbridge@wyo.gov</b>			
k. Program <b>Public Service Commission Rules (0002)</b>			
* <input type="checkbox"/> By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.			
<b>2. Legislative Enactment</b>			
For purposes of this Section 2, "new" only applies to regular non-emergency rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.			
a. Are these non-emergency regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?			
<input checked="" type="checkbox"/> <b>No.</b> <input type="checkbox"/> <b>Yes.</b> If the rules are new, please provide the Chapter Numbers and Years Enacted (e.g. 2015 Session Laws Chapter 154):			
<b>3. Rule Type and Information</b>			
For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.			
a. Provide the Chapter Number, Title* and Proposed Action for Each Chapter. Please use the "Additional Rule Information" form to identify additional rule chapters.			
Chapter Number: <b>1</b>	Chapter Name: <b>Authority and Definitions</b>	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Chapter Number: <b>2</b>	Chapter Name: <b>Uniform Rules for Contested Case Practice and Procedure</b>	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	

\* If the name of a chapter of rules is changing, please provide the NEW chapter name in parenthesis following the OLD chapter name. Example: Old Chapter Name: General Provisions; New Chapter Name: General Provisions and Requirements. This would appear as "General Provisions (General Provisions and Requirements)."

#### 4. Public Comments and Hearing Information

a. A public hearing on the proposed rules has been scheduled.  No.  Yes. Please complete the boxes below.

Date:	Time:	City:	Location:
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b. What is the manner in which interested persons may present their views on the rulemaking action?

By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: \_\_\_\_\_

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: \_\_\_\_\_

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Agency Liaison listed in Section 1 above.

#### 5. Federal Law Requirements

a. These rules are created/amended/repealed to comply with federal law or regulatory requirements.  No.  Yes. Please complete the boxes below.

Applicable Federal Law or Regulation Citation:

Indicate one (1):

The proposed rules meet, but do not exceed, minimum federal requirements.

The proposed rules exceed minimum federal requirements.

Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: \_\_\_\_\_

#### 6. State Statutory Requirements

a. Indicate one (1):

The proposed rule change *MEETS* minimum substantive statutory requirements.

The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b.  The Agency has completed a takings assessment as required by W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:

By contacting the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: \_\_\_\_\_

**7. Additional APA Provisions**

a. Complete all that apply in regards to uniform rules:

These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):

\_\_\_\_\_ (Provide chapter numbers)

These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Principal Reasons).

\_\_\_\_\_ (Provide chapter numbers)

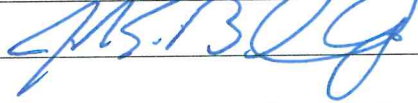
b. Checklist

The Statement of Principal Reasons is attached to this Notice and, in compliance with *Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.

If applicable: In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Chapter 3, *Types of Rules Filings*, Section 1, Proposed Rules, of the Rules on Rules).

**8. Authorization**

a. I certify that the foregoing information is correct.

Printed Name of Authorized Individual	John S. Burbridge	
Title of Authorized Individual	Staff Attorney	
Date of Authorization	February 12, 2020	2-12-2020

BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE REVISION OF )  
COMMISSION RULES CHAPTERS 1 AND 2 ) Docket No. 90000-148-XO-19  
REGARDING ADMINISTRATIVE REVISIONS ) (Record No. 15421)

STATEMENT OF PRINCIPAL REASONS FOR THE  
PROPOSED REVISION OF RULES  
(Issued February 11, 2020)

Pursuant to Wyo. Stat. §§ 16-3-103 and 16-3-106, the Wyoming Public Service Commission (Commission) hereby provides a draft statement of reasons for revisions to Commission Rules Chapters 1 (Authority and Definitions) and 2 (Uniform Rules for Contested Case Practice and Procedure). The Commission’s final rule promulgation order, including a final statement of reasons, will be issued after the conclusion of the Commission’s proceeding.

1. The purpose of the proposed revisions to Commission Rules is to update the dates and websites referenced in Chapter 1, Section 4, “Incorporation by Reference” and to amend Chapter 2, Section 11(b) “Filing and Service of Papers” to eliminate the requirement that four paper copies be filed contemporaneously with original documents to reduce administrative burden.

2. Wyo. Stat. § 37-2-204 states that the Commission “may from time to time make, publish or amend rules for the order and regulation of all proceedings and investigations which under the provisions of this act it is authorized to conduct.”

MADE and ENTERED at Cheyenne, Wyoming, on February 11, 2020.

PUBLIC SERVICE COMMISSION OF WYOMING



\_\_\_\_\_  
KARA B. FORNSTROM, Chairman

## CHAPTER 1 AUTHORITY AND DEFINITIONS

**Section 1. Authority.** These Rules are promulgated pursuant to the Wyoming Administrative Procedure Act, Wyoming Statute §§ 16-3-101 through 16-3-115 and Chapters 1, 2, 3, 6, 12, 15, 16 and 17 of Title 37 of the Wyoming Statutes.

**Section 2. Conformance with Revised Commission Rules and Regulations.** If a change to the Commission's Rules and Regulations renders a utility's tariff non-conforming, the utility shall file a conforming tariff within 90 days of the effective date of the change to the Commission's Rules and Regulations unless otherwise ordered by the Commission.

### **Section 3. Definitions.**

- (a) The following definitions shall apply to Chapters 2 and 3:
- (i) Advertising: the commercial use, by an electric or gas utility, of any media, including newspaper, printed matter, radio and television, in order to transmit a message to a substantial number of members of the public or to such utility's consumers;
  - (ii) ANSI: American National Standards Institute;
  - (iii) Appearances before the Wyoming Public Service Commission:
    - (A) Individuals may appear on their own behalf;
    - (B) A partnership may appear by a partner;
    - (C) A corporation or a limited liability company may appear by an officer or full-time employee;
    - (D) A municipality or a municipal council may appear by an officer, council member or full-time employee;
    - (E) An unincorporated association may appear by any bona fide general officer or full time employee;
    - (F) Any party to a proceeding may appear and be represented by an attorney at law admitted to practice in Wyoming and an active member of the Wyoming State Bar. Other attorneys shall comply with the Uniform Rules for District Courts of the State of Wyoming Rule 104 prior to entry of an appearance;
  - (iv) Applicant: any public utility or person seeking the whole or part of any Commission permit, certificate approval, registration or similar approval, the grant or denial of which is required by law to be determined by the Commission;

(v) ASME: American Society of Mechanical Engineers;

(vi) Authorized person: an individual possessing the legal power to commit a person or municipality, including, but not limited to, a binding agreement, payment authority, revenue authority, spending authority or indebtedness authority. This includes any authority delegated by an authoritative body (such as a board of directors) to organizational positions (such as president, managing director or manager), appointing them as agents of the organization for general or specific purposes;

(vii) AWWA: American Water Works Association;

(viii) Case: means any matter docketed by the Commission from the time of the initial filing or action instituting the case through the final order, future ordered action and the appeal process;

(ix) CBA: Commodity Balancing Account;

(x) Class 1 Location: any location that has 10 or fewer buildings intended for human occupancy within 660 feet of the pipeline in a running mile;

(xi) Class rate: a rate which applies on any one or more of various articles according to the class rating to which they are assigned in a classification or tariff of exceptions thereto or in the class rate tariff;

(xii) Classification: a publication containing a list of articles or commodities and the class ratings to which they are assigned for the purpose of applying class rates, together with governing rules and regulations;

(xiii) Commencing construction: any excavation or physical placement of fixed facilities, but does not mean work done for the purpose of studying or testing possible facility locations;

(xiv) Commission and Commissioner: the Public Service Commission of Wyoming or a member thereof respectively;

(xv) Commission's Authorized Interest Rate: a rate that will be computed from the arithmetic mean of the following: (1) the bank prime loan rate at the close of business on the last business day of September, also as published by the Federal Reserve economic data and (2) the arithmetic mean of the twelve monthly one-year U.S. Treasury constant maturity rates for the previous twelve-month period ending on the last business day of September, as published by the Federal Reserve economic data. The Commission will provide notice of the assigned interest rate by November 30th of each year. The Commission's Authorized Interest Rate shall be in effect for the following calendar year, beginning January 1st and ending December 31<sup>st</sup>;

(xvi) Complainant: any party as defined in (a)(xlii) below complaining to the Commission of anything, actual or proposed, done or omitted to be done in violation of the

Wyoming Public Utilities Act or of an order, rule or regulation of or authorized by the Commission;

(xvii) DEQ: Wyoming Department of Environmental Quality;

(xviii) EPA: United States Environmental Protection Agency;

(xix) FCC: United States Federal Communications Commission;

(xx) FERC: Federal Energy Regulatory Commission;

(xxi) Financial condition: includes the following information and, where practical, may be presented in the manner prescribed in the Uniform System of Accounts for the FERC, FCC, RUS, NARUC or in such manner as may hereafter be prescribed by the Commission:

(A) The amount and class of stock authorized by the certificate of incorporation and by any other authority;

(B) The amount and classes of stock issued and outstanding;

(C) The terms of preference of all preferred stock;

(D) A brief description of each mortgage upon any property of the applicant, giving date of execution, name of mortgagor, the name of the mortgagee or trustee, the amount of indebtedness authorized to be secured thereby, the amount of indebtedness actually accrued, the amount of principal outstanding, the amount of interest due and unpaid and a brief description of the mortgaged property;

(E) The number and amount of bonds authorized and issued, giving the name of the issuing company, describing each class separately, giving the date of issue, par value, rate of interest, date of maturity and how said bonds are secured. If convertible debentures are authorized or outstanding, the date when the conversion privilege accrues and expires and the securities into which, and the rates at which conversion may be made, shall be given;

(F) Other indebtedness, giving name of classes and describing security, if any;

(G) The amount of interest paid during the previous calendar year and the rate thereof. If different rates were paid, give the amount paid at each rate;

(H) The rate and amount of dividends paid upon each class of stock during the previous five years; and

(J) A detailed income statement and balance sheet for the latest calendar year.

(xxii) Good utility practice: any of the practices, methods and acts engaged in or generally approved by the utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment, in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability and safety. Good utility practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the industry.

(xxiii) IEC: International Electrotechnical Commission;

(xxiv) Institutional advertising: any advertising solely intended to enhance the customer's image of the utility;

(xxv) Intervenor: any person or entity affected by any application, petition, formal complaint or motion filed with the Commission, who files an intervention petition in Commission proceedings involving the same, when admitted by the Commission, and means the Office of Consumer Advocate, upon filing a Notice of Intervention;

(xxvi) ISO: International Organization for Standardization;

(xxvii) IRP: Integrated Resource Plan;

(xxviii) Joint rate: a rate that applies over the lines of two or more carriers made pursuant to arrangement or agreement between such carriers and evidenced by concurrence or power of attorney;

(xxix) Local rate: a rate that applies over the lines of one carrier only;

(xxx) Main: a distribution line that serves as a common source of supply for more than one telecommunications service line;

(xxxi) Maintenance power: electric energy or capacity supplied by an electric utility during scheduled outages of the qualifying facility;

(xxxii) Major utility facility:

(A) An electric generating plant and associated facilities, utilizing any source of energy;

(B) An electric transmission line or an electric distribution line of more than three miles, designed for operation at 69 kV or above;

(C) An electric substation or a switching station designed to operate at 69 kV or above;

(D) A natural or manufactured gas transmission pipeline, a natural or



manufactured gas processing plant, a natural or manufactured gas compressor station or a natural or manufactured gas storage system, any part of which is designed for or capable of transporting or storing natural or manufactured gas at pressures in excess of 125 pounds per square inch gauge for a distance of greater than three miles in length in Class 1 Locations not designated as a High Consequence Area or one mile in length in all other locations;

(E) A crude oil trunk transmission line, a liquid petroleum or refined products trunk transmission line or associated processing or pumping facilities, any part of which is designed for or capable of processing or transporting crude oil, liquid petroleum or refined products, excluding well head facilities;

(F) A coal gasification plant and associated facilities or a plant and associated facilities for in situ utilization of coal for gas;

(G) A major water transmission line, water pumping station, water storage facilities or water diversion facilities, not including construction accomplished in the regular course of business.

(xxxiii) NARUC: National Association of Regulatory Utility Commissioners;

(xxxiv) NEC: National Electric Code;

(xxxv) NERC: North American Electric Reliability Corporation;

(xxxvi) NESC: National Electrical Safety Code;

(xxxvii) NIST: National Institute of Standards and Technology;

(xxxviii) Party: each public utility, person, agency, partnership, corporation, other legally recognized business entity, unincorporated association, group, the Office of Consumer Advocate, the Wyoming Attorney General or his representative, or Commission staff member assigned by the Commission to assert or have an adversary position, named or admitted as an applicant, complainant, intervenor, defendant or respondent in any proceeding before the Commission or any person or entity properly seeking and entitled as of right to be admitted as a party. However, nothing in these Rules shall prevent the Commission, upon its own motion for good cause shown, from allowing any interested person or entity to appear in any proceedings before the Commission, whether or not such a person or entity shall have been granted permission to intervene;

(xxxix) Person: includes individuals, associations of individuals, firms, partnerships, companies, corporations, their lessees, trustees, or receivers, appointed by any court whatsoever in the singular number, as well as the plural;

(xl) PHMSA: Pipeline and Hazardous Materials Safety Administration;

(xli) Point of delivery: the outlet point where the utility's service facilities are

connected with the customer's facilities, unless otherwise altered by service contract. If the utility's facilities are connected with the customer's facilities at more than one point, each connecting point shall be considered a separate point of delivery, unless the additional connecting points are made by the utility for its sole convenience in supplying service. Additional service of a different type supplied by the utility shall also be considered a separate point of delivery;

(xlii) Political advertising: any advertising for the purpose of influencing public opinion with respect to legislative, administrative or electoral matters, or with respect to any controversial issue of public importance;

(xliii) Presiding officer: the presiding member of the Commission or Commission employee designated by the Commission to conduct a specific public hearing in matters before the Commission;

(xliv) Promotional advertising: any advertising for the purpose of encouraging any person to select or use the service or additional service of an electric or gas utility or the selection or installation of any appliance or equipment designed to use such utility's service;

(xlv) Proportional rate: a rate published to apply only on traffic originating beyond the point from which such rate applies, destined beyond the point to which such rate applies or originating and destined beyond the points from and to which contain proportional rates;

(xlvi) Protestant or Proponent: any person or entity objecting to or supporting an application or petition which the Commission may have under consideration. Protestants or proponents may file written comments or make oral presentations in a contested case which will alert the Commission to issues to be considered. However, such action will not serve to make the protestant or proponent an intervenor. Any protestant or proponent desiring to be an intervenor shall petition to intervene. Protestants or proponents shall be subject to cross-examination as provided in the Wyoming Administrative Procedure Act;

(xlvii) PURPA: Public Utilities Regulatory Policies Act of 1978;

(xlviii) Real gas law: P = pressure, in psia; V = volume; T = temperature, degrees Rankine; Z = gas compressibility factor;

$$\frac{P_1 V_1}{Z_1 T_1} = \frac{P_2 V_2}{Z_2 T_2}$$

(xlix) Respondent: any person subject to the jurisdiction of the Commission to whom an order or notice is issued by the Commission; and any person subject to the laws, rules, regulations and orders administered or promulgated by the Commission against whom any complaint is filed;

(l) RUS: Rural Utilities Service;

(li) Service line: a distribution line that transports gas from a common source

of supply to the connection to a customer's piping, where it first enters the building wall or to the building wall or roof top or other exterior connection;.

(lii) SIRT: Service Interruption Reporting Telephone;

(liii) Through rate: the total rate from point of origin to destination. It may be a local rate, a joint rate or a combination of separately established rates;

(liv) TIER: Times interest earned ratio;

(lv) Utility: a public utility as defined by Wyoming Statute § 37-1-101(a)(vi);

(lvi) WAPA: Wyoming Administrative Procedure Act (Wyoming Statute §§ 16-3-101 through 16-3-115). All references therein to the "court" shall be deemed to refer to the Commission;

(lvii) WECC: Western Electricity Coordinating Council; and

(lviii) W.R.C.P.: Wyoming Rules of Civil Procedure. All references therein to the "court" shall be deemed to refer to the Commission.

(b) PURPA Definitions: Public Utilities Regulatory Policies Act. Terms defined in PURPA shall have the same meaning for purposes of these Rules as they have under PURPA and the Rules of the FERC issued in Docket No. RM79-55:

(i) Avoided costs: the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source;

(ii) Back-up power: electric energy or capacity supplied by an electric utility to replace energy ordinarily generated by a facility's own generation equipment during an unscheduled outage of the facility;

(iii) Interconnection costs: the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent such costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs;

(iv) Interruptible power: electric energy or capacity supplied by an electric utility subject to interruption by the electric utility under specified conditions;

(v) Maintenance power: electric energy or capacity supplied by an electric

utility during scheduled outages of the qualifying facility;

(vi) Purchase: the purchase of electric energy or capacity or both from a qualifying facility by an electric utility;

(vii) Qualifying cogeneration facility: a facility which produces electrical or other forms of useful thermal energy for industrial, commercial, heating or cooling purposes through the sequential use of energy. In order for such facility to qualify, such facility must meet the efficiency criteria as set forth in section 201 of PURPA, and no more than 50% equity interest therein can be held by an electric utility or its affiliates. Such facility may not be diesel powered. A qualifying facility may not be owned by a person or entity engaged primarily in the generation or sale of electrical power;

(viii) Qualifying facility: any qualifying small power facility or cogeneration facility as defined in section 201 of PURPA and the FERC regulation in Docket No. RM79-54;

(ix) Qualifying small power production facility:

(A) A facility whose power production capacity is owned by one person or entity at one location;

(B) A facility whose production capacity is less than 80 megawatts; and

(C) A facility which derives more than 50% of its energy input from biomass, wastes, renewable resources or any combination thereof, but with less than 25% of its total energy being derived from oil, natural gas and/or coal;

(x) Rate: any price, rate, charge or classification made, demanded, observed or received with respect to the sale or purchase of electric energy or capacity, or any rule, regulation or practice respecting any such rate, charge or classification, and any contract pertaining to the sale or purchase of electric energy or capacity;

(xi) Sale: the sale of electric energy or capacity or both by an electric utility to a qualifying facility;

(xii) Supplementary power: electric energy or capacity supplied by an electric utility, regularly used by a qualifying facility in addition to that which the facility generates itself;

(xiii) **System emergency:** a condition on a utility's system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property;

#### **Section 4. Incorporation by Reference.**

(a) For any code, standard, rule or regulation incorporated by reference in these Rules:

(i) The Commission has determined that incorporation of the full text in these Rules would be cumbersome or inefficient given the length or nature of the Rules;

(ii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (b) of this section;

(iii) The incorporated code, standard, rule or regulation is maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying, at cost, at the same location.

(b) Each code, standard, rule or regulation incorporated by reference in these Rules is further identified as follows:

(i) Wyoming Rules of Civil Procedure, Rule 7(b) and 16, in effect on March 1, 2017. Copies can be obtained from the following designated depository library: Wyoming State Library, 2800 Central Avenue, Cheyenne, WY 82002; or at: [https://www.courts.state.wy.us/wp-content/uploads/2017/05/WYOMING\\_RULES\\_OF\\_CIVIL\\_PROCEDURE.pdf](https://www.courts.state.wy.us/wp-content/uploads/2017/05/WYOMING_RULES_OF_CIVIL_PROCEDURE.pdf);

(ii) Uniform Rules for District Courts of the State of Wyoming, Rule 104, in effect on May 13, 2014. Copies can be obtained from the following designated depository library: Wyoming State Library, 2800 Central Avenue, Cheyenne, WY 82002; or at: [https://www.courts.state.wy.us/wp-content/uploads/2017/05/UNIFORM\\_RULES\\_FOR\\_DISTRICT\\_COURTS\\_OF\\_THE\\_STATE\\_OF\\_WYOMING.pdf](https://www.courts.state.wy.us/wp-content/uploads/2017/05/UNIFORM_RULES_FOR_DISTRICT_COURTS_OF_THE_STATE_OF_WYOMING.pdf);

(iii) The Code of Federal Regulations, Title 7, Parts 1700 through 1794, in effect on January 1, 2018; Title 18, Parts 101, and 292, in effect on April 1, 2018; Title 47, Parts 4.5, 54.5, 54.1307, 54.400 and 68, in effect on October 1, 2017; Title 49, Parts 40, 191, 192, 193, 198, and 199, in effect on October 1, 2017. Copies of these regulations can be obtained from the designated depository library: Wyoming State Library, 2800 Central Avenue, Cheyenne, WY 82002, or at: <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>;

(iv) Federal Bankruptcy Act of 1978, 11 U.S.C. §§ 101 through 1532; National Energy Act of 1978, 16 U.S.C. §§ 2601 through 2645; National Energy Conservation Policy Act, 42 U.S.C. §§ 8231 through 8236(b); and the Telecommunications Act of 1996, 47 U.S.C. §§ 214(e), and 254(f), in effect on June 25, 2018. Copies of the Act can be obtained from the following designated depository library: Wyoming State Library, 2800 Central Avenue, Cheyenne, WY 82002, or at: <http://uscode.house.gov/>;

(v) The Cellular Telecommunication and Internet Association (CTIA) Consumer Code, effective December 2013. Copies of the Consumer Code can be obtained from the CTIA at 1400 16th Street, NW Suite 600, Washington, DC 20036; or at: <http://www.ctia.org/>;

(vi) American National Standards Institute (ANSI) Codes and Standards, in effect on August 28, 2018. Copies are maintained at the Commission's offices at 2515 Warren

Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or at: <http://www.ansi.org/>;

(vii) American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code, 2017 edition. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or is available for purchase at: <https://www.asme.org/>;

(viii) 2017 National Electrical Safety Code (NEC). Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or is available for purchase at: <http://standards.ieee.org/index.html>;

(ix) 2017 National Electric Code (NEC). Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or is available for purchase at: <http://www.nfpa.org/>;

(x) Western Electric Coordinating Council (WECC) Standards, in effect on July 9, 2018. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or at: <https://www.wecc.biz/Pages/home.aspx>;

(xi) North American Electric Reliability Corporation (NERC) Standards, in effect on July 1, 2018. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or at: <http://www.nerc.com/Pages/default.aspx>;

(xii) National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts for Class A, B, C and D water utilities, in effect on December 31, 2007. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or is available for purchase at: <http://www.naruc.org/>;

(xiii) American Water Works Association (AWWA) Standards, in effect on August 28, 2018. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or is available for purchase at: <http://www.awwa.org/>;

(xiv) International Electrotechnical Commission (IEC) Standards, in effect on August 28, 2018. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or is available for purchase at: <http://www.iec.ch/>;

(xv) International Organization for Standardization (ISO) Standards, in effect on x x, 2018. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300

in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or is available for purchase at: <http://www.iso.org/iso/home.html>.

**CHAPTER 2**  
**UNIFORM RULES FOR CONTESTED CASE PRACTICE AND PROCEDURE**

**Section 1. Authority and Scope.**

(a) These Rules are promulgated by authority of Wyoming Statute § 16-3-102(d). These Rules shall govern all contested case proceedings before all agencies to the extent they are adopted, and shall be relied upon by hearing officers, adjudicative agencies and parties in all contested cases before any agency. Agencies may develop forms not inconsistent with these Rules.

(b) Except as specified below, the Uniform Rules for Contested Case Practice and Procedure have been adopted by the Commission and are re-stated here for ease of those appearing before the Commission.

(i) Sections not adopted:

(A) Section 4;

(B) Section 6; and

(C) Section 19.

(ii) Sections replaced:

(d) (repealed);  
(A) Section 11(b) has been replaced with Commission Rule 104(b) and

(B) Section 20 has been replaced with Commission Rule 118 (repealed);

(C) Section 22(a)(iii) has been replaced with Commission Rule 115(b)(v) (repealed); and

(D) Section 25 has been replaced with WPSC Rule 119 (repealed).

(iii) Sections added:

(A) Section 30 is Commission Rule 120 (repealed); and

(B) Section 31 is a new provision.

**Section 2. Definitions.**

The following definitions shall apply to this Chapter:



(a) “Adjudicative agency” means an agency authorized to conduct and preside over its own contested cases;

(b) “Agency” means any authority, bureau, board, commission, department, division of the state, or other entities that are statutorily authorized to refer cases to the Office;

(c) “Attorney” means an attorney licensed to practice law in the State of Wyoming or, an attorney who is licensed to practice law in another state and who is associated with an attorney licensed to practice law in the State of Wyoming;

(d) “Contested case” means a proceeding in which legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing;

(e) “Hearing officer” means a hearing examiner from the Office, a presiding officer of any agency, an attorney who has been retained by an agency to preside over a contested case, an officer of any agency who has been designated to preside over a contested case, or any other person who is statutorily authorized to preside over a contested case;

(f) “Hearing panel” means those members of an agency or adjudicative agency who are designated and authorized to make a final decision in a contested case;

(g) “Office” means the Office of Administrative Hearings;

(h) “Referring agency” means any agency which has referred a contested case for hearing before the Office or before another hearing officer;

(j) “Representative” means an individual other than an attorney who is authorized to function in a representative capacity on behalf of a party to a contested case; and

(k) “Wyoming Administrative Procedure Act” means Wyoming Statute §§ 16-3-101 through -115.

### **Section 3. Incorporation by Reference.**

(a) The code, standard, rule or regulation below is incorporated by reference and can be found at: <http://www.courts.state.wy.us/WSC/CourtRule?RuleNumber=48>

(i) Rule 12(b)(6), Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on April 11, 1995;

(ii) Rule 24, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on February 11, 1971;

(iii) Rule 45, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on October 1, 2009;

(iv) Rule 52, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on July 1, 2000;

(v) Rule 56, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on October 11, 1964;

(vi) Rule 56.1, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on July 1, 2008;

(b) No later amendments to a code, standard, rule or regulation listed in subsection (a) of this section are incorporated by reference.

#### **Section 4. Informal Proceedings and Alternative Dispute Resolution.**

Not adopted.

#### **Section 5. Commencement of Contested Case Proceedings.**

(a) A contested case shall be commenced by filing a timely request for a hearing of any agency action or inaction, or the filing of an application, petition, complaint or other document which, as a matter of law, entitles the petitioner, applicant, complainant, or respondent an opportunity to be heard.

(b) At the commencement of every contested case, an agency or hearing officer shall issue a notice of hearing including a statement of:

- (i) the time, place and nature of the hearing;
- (ii) the legal authority and jurisdiction under which the hearing is to be held;
- (iii) the particular sections of the statutes and rules involved; and

(iv) a short and plain statement of the matters asserted. If the agency or hearing officer is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved and, thereafter, upon application, a more definite and detailed statement shall be furnished.

#### **Section 6. Referral to Office.**

Not adopted.

#### **Section 7. Referral to Hearing Officer Other Than the Office.**

When an agency refers a contested case to a hearing officer other than the Office or when an adjudicative agency retains a contested case, the agency shall comply with any referral

requirements of that hearing officer or adjudicative agency.

### **Section 8. Designation and Authority of Hearing Officer; Recusal.**

(a) Any agency may refer, assign, or designate a hearing officer to preside over any contested case, unless otherwise provided by law. When appropriate under applicable law or at the referring agency's request, the hearing officer may provide either a recommended or final decision.

(b) Upon referral for contested case by a referring agency that will not be present for the hearing, a hearing officer shall conduct a contested case and may enter proposed findings of fact and conclusions of law or may provide a complete record of the contested case to the referring agency for entry of a final decision.

(c) At any time while a contested case is pending, a hearing officer or hearing panel member may withdraw from a contested case by filing written notice of recusal. From and after the date the written notice of recusal is entered, the recused hearing officer or hearing panel member shall not participate in the contested case.

(d) Upon motion of any party, recusal of a hearing officer or hearing panel member shall be for cause. Whenever the grounds for such motion become known, any party may move for a recusal of a hearing officer or hearing panel member on the ground that the hearing officer or hearing panel member:

(i) **has been engaged as counsel in the action prior to being appointed as hearing officer or hearing panel member;**

(ii) **has an interest in the outcome of the action;**

(iii) **is related by consanguinity to a party;**

(iv) **is a material witness in the action;**

(v) **is biased or prejudiced against the party or the party's attorney or representative; or**

(vi) **any other grounds provided by law.**

(e) **A motion for recusal shall be supported by an affidavit or affidavits of any person or persons, stating sufficient facts to show the existence of grounds for the motion. Prior to a hearing on the motion, any party may file counter-affidavits. The motion shall be heard by the hearing officer or, at the discretion of the hearing officer, by another hearing officer. If the motion is granted, the hearing officer shall immediately designate another hearing officer to preside over the contested case or shall excuse the hearing panel member(s).**

(f) A hearing officer shall not be subject to a voir dire examination by any party.

(g) Subject to limitations imposed by the hearing officer, any party may be permitted to conduct a voir dire examination of a hearing panel.

### **Section 9. Appearances and Withdrawals.**

(a) A party, whether it be an individual, corporation, partnership, governmental organization or other entity may appear through an attorney or representative. An individual may represent himself/herself. An individual or entity seeking to intervene in a contested case under Rule 24 of the Wyoming Rules of Civil Procedure, may appear through an attorney or representative prior to a ruling on the motion to intervene.

(b) Prior to withdrawing from a contested case, an attorney shall file a motion to withdraw. The motion for an attorney's withdrawal shall include a statement indicating the manner in which notification was given to the client and setting forth the client's last known address and telephone number. The hearing officer shall not grant the motion to withdraw unless the attorney has made reasonable efforts to give actual notice to the client that:

(i) the attorney wishes to withdraw;

(ii) the client has the burden of keeping the hearing officer informed of the address where notices, pleadings or other papers may be served;

(iii) the client has the obligation to prepare, or to hire another attorney or representative to prepare, for the contested case and the dates of proceedings;

(iv) the client may suffer an adverse determination in the contested case if the client fails or refuses to meet these burdens;

(v) the pleadings and papers in the case shall be served upon the client at the client's last known address; and

(vi) the client has the right to object within 15 days of the date of notice.

(c) Prior to withdrawing from a contested case, a representative shall provide written notice of withdrawal to the hearing officer and the agency.

### **Section 10. Ex Parte Communications.**

Except as authorized by law, a party or a party's attorney or representative shall not communicate with the hearing officer or hearing panel member in connection with any issue of fact or law concerning any pending contested case, except upon notice and opportunity for all parties to participate. Should ex parte communication occur, the hearing officer or hearing panel member shall advise all parties of the communication as soon as possible thereafter and, if requested, shall allow any party an opportunity to respond prior to ruling on the issue.

## **Section 11. Filing and Service of Papers.**

(a) In all contested cases, the parties shall file all original documents, pleadings and motions with the referring agency or adjudicative agency, as applicable, with true and correct copies of the particular document, pleading or motion properly served on all other parties and the hearing officer, accompanied by a certificate of service. The referring agency or adjudicative agency shall maintain the complete original file, and all parties and the hearing officer shall be provided copies of all contested case documents, pleadings and motions contained therein.

(b) Unless otherwise ordered, all filings with the Commission shall be made electronically as provided on the Commission's website. The signed original filing, plus four copies, are required to be filed within three days of electronic filing. All filings shall:

- (i) Be addressed to the Commission;
- (ii) Designate the Commission docket number if known;
- (iii) State the name, address and telephone number of the party;
- (iv) Be accompanied by required fees;
- (v) Be typed, printed or otherwise legibly reproduced on 8 ½ by 11 inch paper with 1 inch margins; and
- (vi) Be signed by either an authorized signatory of a party or an attorney licensed to practice law in the State of Wyoming.

(c) The Commission may reject the filing if the Commission determines it to be deficient.

(d) The date of filing is the earlier of the transmission of the electronic filing or the receipt of the paper original and copies by the Commission. Any filing received after 5 p.m. shall be deemed made on the next business day.

(e) Amendments that materially or substantially alter the initial filing may be re-noticed under W.A.P.A. The receipt of the renoticed amended filing will be considered the initial filing date.

## **Section 12. Computation of Time.**

(a) In computing any period of time prescribed or allowed by these Rules, by order or by any applicable statutes or regulations, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, or, when the act

to be done is the filing of a paper, a day on which weather or other conditions have made agency offices inaccessible, in which event the period runs until the end of the following day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. As used in this Rule, "legal holiday" includes any day officially recognized as a legal holiday in this state by designation of the legislature or appointment as a holiday by the governor.

*(b) Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon the party, and the notice or paper is served upon the party by mail or by delivery to the agency for service, three days shall be added to the prescribed period.*

### **Section 13. Motions and Motion Practice.**

(a) Unless these Rules or an order of the hearing officer establish time limitations other than those contained herein, all motions except motions for enlargement of time and motions made during hearing, shall be served at least 10 days before the hearing on the motion. A party affected by the motion may serve a response, together with affidavits, if any, at least three days prior to the hearing on the motion or within 20 days after service of the motion, whichever is earlier. Unless the hearing officer permits service at some other time, the moving party may serve a reply, if any, at least one day prior to the hearing on the motion or within 15 days after service of the response, whichever is earlier. Unless the hearing officer otherwise orders, any party may serve supplemental memoranda or rebuttal affidavits at least one day prior to the hearing on the motion.

(b) A request for hearing may be served by the moving party or any party affected by the motion within 20 days after service of the motion. The hearing officer may determine such motion without a hearing.

### **Section 14. Setting Hearings, Other Proceedings and Location of Hearings.**

(a) The hearing officer or adjudicative agency, as applicable, shall assign a docket number to each contested case. All papers, pleadings, motions and orders filed thereafter shall contain:

- (i) a conspicuous reference to the assigned docket number;
- (ii) a caption setting forth the title of the contested case and a brief designation describing the document filed; and
- (iii) the name, address, telephone number and signature of the person who prepared the document.

(b) The hearing officer shall set the course of proceedings, which may include, but is not limited to, scheduling informal conferences, confidentiality issues, summary disposition

deadlines, motion practice, settlement conferences and the evidentiary hearing.

(c) Prehearing conferences may be held at the discretion of the hearing officer. Any party may request a prehearing conference to address issues such as discovery, motion deadlines, scheduling orders or status conferences.

(d) At the hearing officer's discretion, and unless otherwise provided by the referring agency, telephone or videoconference calls may be used to conduct any proceeding. At the discretion of the hearing officer, parties or their witnesses may be allowed to participate in any hearing by telephone or videoconference.

(e) The hearing officer shall determine the location for proceedings.

### **Section 15. Consolidation.**

A party may seek consolidation of two or more contested cases by filing a motion to consolidate in each case sought to be consolidated. If consolidation is ordered, and unless otherwise ordered by the hearing officer, all subsequent filings shall be in the case first filed, and all previous filings related to the consolidated cases shall be placed together under that case number. Consolidation may be ordered on a hearing officer's own motion.

### **Section 16. Continuances, Extensions of Time and Duty to Confer.**

(a) A motion for a continuance of any scheduled hearing shall be in writing, state the reasons for the motion, and be filed and served on all parties and the hearing officer. A request for a continuance filed less than five days before a scheduled hearing shall be granted only upon a showing of good cause.

(b) A motion for an extension of time for performing any act prescribed or allowed by these Rules or by order of the hearing officer shall be filed and served on all parties and the hearing officer prior to the expiration of the applicable time period. A motion for extension of time shall be granted only upon a showing of good cause.

(c) A moving party shall make reasonable efforts to contact all parties, representatives, and attorneys before filing a motion for continuance or extension of time. A motion for continuance or extension of time shall include a statement concerning efforts made to confer with the other party(s) and position(s) on the motion.

(d) Continuances relating to mediation shall be made no later than 30 days prior to the date of the hearing.

### **Section 17. Discovery.**

(a) The taking of depositions and discovery shall be in accordance with Wyoming

Statute § 16-3-107(g).

(b) Unless the hearing officer or adjudicative agency orders otherwise, parties shall not file discovery requests, answers, and deposition notices with the hearing officer or adjudicative agency.

**Section 18. Subpoenas.**

Any party may request the hearing officer to issue a subpoena to compel the attendance of a witness or for the production of documents. Requests for the issuance of a subpoena shall be accompanied by a completed subpoena, which shall conform to Rule 45 of the Wyoming Rules of Civil Procedure.

**Section 19. Summary Disposition.**

Not adopted.

**Section 20. Prehearing Procedures.**

The Commission or presiding officer may direct the attorneys for the parties and any unrepresented parties to appear for a conference or conferences before a hearing in accordance with W.R.C.P. Rule 16.

**Section 21. Burden of Proof.**

The hearing officer shall assign the burden of proof in accordance with applicable law.

**Section 22. Evidence.**

(a) The hearing officer shall rule on the admissibility of evidence in accordance with the following:

(i) Evidence of the type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

(ii) Evidence may be offered through witness testimony or in documentary form;

(iii) Hearings shall generally be conducted as follows:

(A) The presiding officer may allow into evidence, after appropriate filing and service, the written testimony of a witness in question and answer form. The testimony



shall have line numbers inserted at the left margin and shall be authenticated by affidavit of the witness. If admitted, the testimony shall be marked and incorporated into the record as existing without being read into the record. Parties shall have full opportunity to cross-examine the witness on the testimony. The presiding officer may require additional written testimony during the pendency of a case;

(iv) The rules of privilege recognized by Wyoming law shall be given effect;  
and

(v) A hearing officer may take administrative notice of judicially cognizable facts, provided the parties are properly notified of any material facts noticed.

(b) Each party shall have the opportunity to cross-examine witnesses. The hearing officer may allow cross-examination on matters not covered on direct examination.

(c) The hearing officer, the hearing panel, agency staff or other persons delegated to do so by the hearing officer or hearing panel, when applicable, may ask questions of any party or witness.

### **Section 23. Contested Case Hearing Procedure.**

(a) The hearing officer shall conduct the contested case and shall have discretion to direct the order of the proceedings.

(b) Unless otherwise provided by law, and at the hearing officer's discretion, the party with the burden of proof shall be the first to present evidence. All other parties shall be allowed to cross-examine witnesses in an orderly fashion. When that party rests, other parties shall then be allowed to present their evidence. Rebuttal and surrebuttal evidence shall be allowed only at the discretion of the hearing officer.

(c) The hearing officer shall have discretion to allow opening statements and closing arguments.

### **Section 24. Default.**

Unless otherwise provided by law, a hearing officer may enter an order of default or an order affirming agency action for a party's failure to appear at a lawfully noticed hearing.

### **Section 25. Settlements.**

Any matter may be disposed of by stipulation, settlement or consent order upon approval of the Commission.

### **Section 26. Expedited Hearing.**

(a) At the hearing officer's or hearing panel's discretion, a contested case may be heard as an expedited hearing upon the motion of any party. Expedited hearings may include summary suspensions under Wyoming Statute § 16-3-113(c) and other emergency proceedings authorized by law.

(b) An expedited hearing shall be decided on written arguments, evidence, and stipulations submitted by the parties. A hearing officer or hearing panel may permit oral arguments upon the request of any party.

(c) The hearing officer or hearing panel may require an evidentiary hearing in any case in which it appears that facts material to a decision in the case cannot be properly determined by an expedited hearing.

### **Section 27. Recommended Decision.**

In those contested cases where the hearing officer makes a recommended decision, the hearing officer shall file the recommended decision with the referring agency and serve copies of the recommended decision on all parties to the contested case. Unless otherwise ordered, parties shall have ten days to file written exceptions to the hearing officer's recommended decision. Written exceptions shall be filed with the referring agency and served on all parties.

### **Section 28. Final Decision.**

(a) A final decision entered by a hearing officer or adjudicative agency shall be in writing, filed with the referring agency and served upon all parties to the contested case. A final decision entered by the referring agency or adjudicative agency shall be served upon all parties and the hearing officer.

(b) A final decision shall include findings of fact and conclusions of law, separately stated. When the hearing officer allows the parties to submit a proposed final order, the parties shall forward the original to the agency and serve copies of the proposed order on all other parties and the hearing officer.

(c) A hearing officer or adjudicative agency may at any time prior to judicial review, correct clerical errors in final decisions or other parts of the record. A party may move that clerical errors or other parts of the record be corrected. During the pendency of judicial review, such errors may be corrected only with leave of the court having jurisdiction.

### **Section 29. Record of Proceeding.**

The referring agency or adjudicative agency shall make appropriate arrangements to assure that a record of the proceeding is kept pursuant to Wyoming Statute § 16-3-107(o) and (p). Copies of the transcript taken at any hearing may be obtained by any party, interested person, or entity from the court reporter taking the testimony at such fee as the reporter may charge.

### **Section 30. Confidentiality of Information.**

(a) Upon petition, and for good cause shown, the Commission shall deem confidential any information filed with the Commission or in the custody of the Commission or staff which is shown to be of the nature described in Wyoming Statute §16-4-203(a), (b), (d) or (g). All information for which confidential treatment is requested shall be treated as confidential until the Commission rules whether, and to what extent, the information shall be given confidential treatment.

(b) Any person requesting confidential treatment of information (except as directed by the Commission in investigative and discovery matters) shall file a petition that includes the following information:

(i) The assigned docket, if applicable.

(ii) Title the filing as: Petition for Confidential Treatment of \_\_\_\_\_.

(iii) Numbered listings and explanations in adequate detail to support why confidentiality should be authorized for each item, category, page, document or testimony. Each item, category or page of proposed confidential information shall be attached to the Petition and numbered in the right hand margin so that numbering corresponds with the numbering and detailed explanation(s) in the Petition. If only part of a page, or intermittent parts of pages, are requested to be kept confidential, these should be set off by brackets identified with an item number or numbers. Each page containing information for which confidential treatment is requested shall be printed on yellow paper and marked or stamped at the top in capital letters: CONFIDENTIAL INFORMATION.

(iv) A request for return or other final disposition of the information.

(c) All information deemed confidential under this Rule shall be retained in secure areas of the Commission's offices.

(d) If the person petitioning for confidential treatment of information intends that parties in a case have access thereto, upon signing a statement that the information shall be treated as confidential, the petitioner shall prepare a proposed protective order for the Commission's approval with an attached form to be signed by the parties and made part of the Commission's permanent case file.

(e) Information in the Commission's confidential files shall be retained for the period determined by the Commission. On an appeal of a Commission final order, any confidential information included in the record shall be sealed and delivered to the court pursuant to the W.A.P.A.

(f) The Commission may consider oral petitions for confidential treatment of information when the public interest requires.

**Section 31. Deliberations and Order.**

(a) All deliberations of the Commission shall be held in public in accordance with Wyoming law.

(b) Upon reaching its decision, the Commission shall direct the drafting of an order, which upon signature of at least two Commissioners, shall become a final order. Dissenting or concurring opinions may be filed with the final order.

## **CHAPTER 1 AUTHORITY AND DEFINITIONS**

**Section 1. Authority.** These Rules are promulgated pursuant to the Wyoming Administrative Procedure Act, Wyoming Statute §§ 16-3-101 through 16-3-115 and Chapters 1, 2, 3, 6, 12, 15, 16 and 17 of Title 37 of the Wyoming Statutes.

**Section 2. Conformance with Revised Commission Rules and Regulations.** If a change to the Commission's Rules and Regulations renders a utility's tariff non-conforming, the utility shall file a conforming tariff within 90 days of the effective date of the change to the Commission's Rules and Regulations unless otherwise ordered by the Commission.

### **Section 3. Definitions.**

- (a) The following definitions shall apply to Chapters 2 and 3:
- (i) Advertising: the commercial use, by an electric or gas utility, of any media, including newspaper, printed matter, radio and television, in order to transmit a message to a substantial number of members of the public or to such utility's consumers;
  - (ii) ANSI: American National Standards Institute;
  - (iii) Appearances before the Wyoming Public Service Commission:
    - (A) Individuals may appear on their own behalf;
    - (B) A partnership may appear by a partner;
    - (C) A corporation or a limited liability company may appear by an officer or full-time employee;
    - (D) A municipality or a municipal council may appear by an officer, council member or full-time employee;
    - (E) An unincorporated association may appear by any bona fide general officer or full time employee;
    - (F) Any party to a proceeding may appear and be represented by an attorney at law admitted to practice in Wyoming and an active member of the Wyoming State Bar. Other attorneys shall comply with the Uniform Rules for District Courts of the State of Wyoming Rule 104 prior to entry of an appearance;
  - (iv) Applicant: any public utility or person seeking the whole or part of any Commission permit, certificate approval, registration or similar approval, the grant or denial of which is required by law to be determined by the Commission;

(v) ASME: American Society of Mechanical Engineers;

(vi) Authorized person: an individual possessing the legal power to commit a person or municipality, including, but not limited to, a binding agreement, payment authority, revenue authority, spending authority or indebtedness authority. This includes any authority delegated by an authoritative body (such as a board of directors) to organizational positions (such as president, managing director or manager), appointing them as agents of the organization for general or specific purposes;

(vii) AWWA: American Water Works Association;

(viii) Case: means any matter docketed by the Commission from the time of the initial filing or action instituting the case through the final order, future ordered action and the appeal process;

(ix) CBA: Commodity Balancing Account;

(x) Class 1 Location: any location that has 10 or fewer buildings intended for human occupancy within 660 feet of the pipeline in a running mile;

(xi) Class rate: a rate which applies on any one or more of various articles according to the class rating to which they are assigned in a classification or tariff of exceptions thereto or in the class rate tariff;

(xii) Classification: a publication containing a list of articles or commodities and the class ratings to which they are assigned for the purpose of applying class rates, together with governing rules and regulations;

(xiii) Commencing construction: any excavation or physical placement of fixed facilities, but does not mean work done for the purpose of studying or testing possible facility locations;

(xiv) Commission and Commissioner: the Public Service Commission of Wyoming or a member thereof respectively;

(xv) Commission's Authorized Interest Rate: a rate that will be computed from the arithmetic mean of the following: (1) the bank prime loan rate at the close of business on the last business day of September, also as published by the Federal Reserve economic data and (2) the arithmetic mean of the twelve monthly one-year U.S. Treasury constant maturity rates for the previous twelve-month period ending on the last business day of September, as published by the Federal Reserve economic data. The Commission will provide notice of the assigned interest rate by November 30th of each year. The Commission's Authorized Interest Rate shall be in effect for the following calendar year, beginning January 1st and ending December 31<sup>st</sup>;

(xvi) Complainant: any party as defined in (a)(xlii) below complaining to the Commission of anything, actual or proposed, done or omitted to be done in violation of the

Wyoming Public Utilities Act or of an order, rule or regulation of or authorized by the Commission;

(xvii) DEQ: Wyoming Department of Environmental Quality;

(xviii) EPA: United States Environmental Protection Agency;

(xix) FCC: United States Federal Communications Commission;

(xx) FERC: Federal Energy Regulatory Commission;

(xxi) Financial condition: includes the following information and, where practical, may be presented in the manner prescribed in the Uniform System of Accounts for the FERC, FCC, RUS, NARUC or in such manner as may hereafter be prescribed by the Commission:

(A) The amount and class of stock authorized by the certificate of incorporation and by any other authority;

(B) The amount and classes of stock issued and outstanding;

(C) The terms of preference of all preferred stock;

(D) A brief description of each mortgage upon any property of the applicant, giving date of execution, name of mortgagor, the name of the mortgagee or trustee, the amount of indebtedness authorized to be secured thereby, the amount of indebtedness actually accrued, the amount of principal outstanding, the amount of interest due and unpaid and a brief description of the mortgaged property;

(E) The number and amount of bonds authorized and issued, giving the name of the issuing company, describing each class separately, giving the date of issue, par value, rate of interest, date of maturity and how said bonds are secured. If convertible debentures are authorized or outstanding, the date when the conversion privilege accrues and expires and the securities into which, and the rates at which conversion may be made, shall be given;

(F) Other indebtedness, giving name of classes and describing security, if any;

(G) The amount of interest paid during the previous calendar year and the rate thereof. If different rates were paid, give the amount paid at each rate;

(H) The rate and amount of dividends paid upon each class of stock during the previous five years; and

(J) A detailed income statement and balance sheet for the latest calendar year.

(xxii) Good utility practice: any of the practices, methods and acts engaged in or generally approved by the utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment, in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability and safety. Good utility practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the industry.

(xxiii) IEC: International Electrotechnical Commission;

(xxiv) Institutional advertising: any advertising solely intended to enhance the customer's image of the utility;

(xxv) Intervenor: any person or entity affected by any application, petition, formal complaint or motion filed with the Commission, who files an intervention petition in Commission proceedings involving the same, when admitted by the Commission, and means the Office of Consumer Advocate, upon filing a Notice of Intervention;

(xxvi) ISO: International Organization for Standardization;

(xxvii) IRP: Integrated Resource Plan;

(xxviii) Joint rate: a rate that applies over the lines of two or more carriers made pursuant to arrangement or agreement between such carriers and evidenced by concurrence or power of attorney;

(xxix) Local rate: a rate that applies over the lines of one carrier only;

(xxx) Main: a distribution line that serves as a common source of supply for more than one telecommunications service line;

(xxxi) Maintenance power: electric energy or capacity supplied by an electric utility during scheduled outages of the qualifying facility;

(xxxii) Major utility facility:

(A) An electric generating plant and associated facilities, utilizing any source of energy;

(B) An electric transmission line or an electric distribution line of more than three miles, designed for operation at 69 kV or above;

(C) An electric substation or a switching station designed to operate at 69 kV or above;

(D) A natural or manufactured gas transmission pipeline, a natural or



manufactured gas processing plant, a natural or manufactured gas compressor station or a natural or manufactured gas storage system, any part of which is designed for or capable of transporting or storing natural or manufactured gas at pressures in excess of 125 pounds per square inch gauge for a distance of greater than three miles in length in Class 1 Locations not designated as a High Consequence Area or one mile in length in all other locations;

(E) A crude oil trunk transmission line, a liquid petroleum or refined products trunk transmission line or associated processing or pumping facilities, any part of which is designed for or capable of processing or transporting crude oil, liquid petroleum or refined products, excluding well head facilities;

(F) A coal gasification plant and associated facilities or a plant and associated facilities for in situ utilization of coal for gas;

(G) A major water transmission line, water pumping station, water storage facilities or water diversion facilities, not including construction accomplished in the regular course of business.

(xxxiii) NARUC: National Association of Regulatory Utility Commissioners;

(xxxiv) NEC: National Electric Code;

(xxxv) NERC: North American Electric Reliability Corporation;

(xxxvi) NESC: National Electrical Safety Code;

(xxxvii) NIST: National Institute of Standards and Technology;

(xxxviii) Party: each public utility, person, agency, partnership, corporation, other legally recognized business entity, unincorporated association, group, the Office of Consumer Advocate, the Wyoming Attorney General or his representative, or Commission staff member assigned by the Commission to assert or have an adversary position, named or admitted as an applicant, complainant, intervenor, defendant or respondent in any proceeding before the Commission or any person or entity properly seeking and entitled as of right to be admitted as a party. However, nothing in these Rules shall prevent the Commission, upon its own motion for good cause shown, from allowing any interested person or entity to appear in any proceedings before the Commission, whether or not such a person or entity shall have been granted permission to intervene;

(xxxix) Person: includes individuals, associations of individuals, firms, partnerships, companies, corporations, their lessees, trustees, or receivers, appointed by any court whatsoever in the singular number, as well as the plural;

(xl) PHMSA: Pipeline and Hazardous Materials Safety Administration;

(xli) Point of delivery: the outlet point where the utility's service facilities are

connected with the customer's facilities, unless otherwise altered by service contract. If the utility's facilities are connected with the customer's facilities at more than one point, each connecting point shall be considered a separate point of delivery, unless the additional connecting points are made by the utility for its sole convenience in supplying service. Additional service of a different type supplied by the utility shall also be considered a separate point of delivery;

(xlii) Political advertising: any advertising for the purpose of influencing public opinion with respect to legislative, administrative or electoral matters, or with respect to any controversial issue of public importance;

(xliii) Presiding officer: the presiding member of the Commission or Commission employee designated by the Commission to conduct a specific public hearing in matters before the Commission;

(xliv) Promotional advertising: any advertising for the purpose of encouraging any person to select or use the service or additional service of an electric or gas utility or the selection or installation of any appliance or equipment designed to use such utility's service;

(xlv) Proportional rate: a rate published to apply only on traffic originating beyond the point from which such rate applies, destined beyond the point to which such rate applies or originating and destined beyond the points from and to which contain proportional rates;

(xlvi) Protestant or Proponent: any person or entity objecting to or supporting an application or petition which the Commission may have under consideration. Protestants or proponents may file written comments or make oral presentations in a contested case which will alert the Commission to issues to be considered. However, such action will not serve to make the protestant or proponent an intervenor. Any protestant or proponent desiring to be an intervenor shall petition to intervene. Protestants or proponents shall be subject to cross-examination as provided in the Wyoming Administrative Procedure Act;

(xlvii) PURPA: Public Utilities Regulatory Policies Act of 1978;

(xlviii) Real gas law:  $P$  = pressure, in psia;  $V$  = volume;  $T$  = temperature, degrees Rankine;  $Z$  = gas compressibility factor;

$$\frac{P_1 V_1}{Z_1 T_1} = \frac{P_2 V_2}{Z_2 T_2}$$

(xlix) Respondent: any person subject to the jurisdiction of the Commission to whom an order or notice is issued by the Commission; and any person subject to the laws, rules, regulations and orders administered or promulgated by the Commission against whom any complaint is filed;

(l) RUS: Rural Utilities Service;

(li) Service line: a distribution line that transports gas from a common source

of supply to the connection to a customer's piping, where it first enters the building wall or to the building wall or roof top or other exterior connection;.

(lii) SIRT: Service Interruption Reporting Telephone;

(liii) Through rate: the total rate from point of origin to destination. It may be a local rate, a joint rate or a combination of separately established rates;

(liv) TIER: Times interest earned ratio;

(lv) Utility: a public utility as defined by Wyoming Statute § 37-1-101(a)(vi);

(lvi) WAPA: Wyoming Administrative Procedure Act (Wyoming Statute §§ 16-3-101 through 16-3-115). All references therein to the "court" shall be deemed to refer to the Commission;

(lvii) WECC: Western Electricity Coordinating Council; and

(lviii) W.R.C.P.: Wyoming Rules of Civil Procedure. All references therein to the "court" shall be deemed to refer to the Commission.

(b) PURPA Definitions: Public Utilities Regulatory Policies Act. Terms defined in PURPA shall have the same meaning for purposes of these Rules as they have under PURPA and the Rules of the FERC issued in Docket No. RM79-55:

(i) Avoided costs: the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, such utility would generate itself or purchase from another source;

(ii) Back-up power: electric energy or capacity supplied by an electric utility to replace energy ordinarily generated by a facility's own generation equipment during an unscheduled outage of the facility;

(iii) Interconnection costs: the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the electric utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent such costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs;

(iv) Interruptible power: electric energy or capacity supplied by an electric utility subject to interruption by the electric utility under specified conditions;

(v) Maintenance power: electric energy or capacity supplied by an electric

utility during scheduled outages of the qualifying facility;

(vi) Purchase: the purchase of electric energy or capacity or both from a qualifying facility by an electric utility;

(vii) Qualifying cogeneration facility: a facility which produces electrical or other forms of useful thermal energy for industrial, commercial, heating or cooling purposes through the sequential use of energy. In order for such facility to qualify, such facility must meet the efficiency criteria as set forth in section 201 of PURPA, and no more than 50% equity interest therein can be held by an electric utility or its affiliates. Such facility may not be diesel powered. A qualifying facility may not be owned by a person or entity engaged primarily in the generation or sale of electrical power;

(viii) Qualifying facility: any qualifying small power facility or cogeneration facility as defined in section 201 of PURPA and the FERC regulation in Docket No. RM79-54;

(ix) Qualifying small power production facility:

(A) A facility whose power production capacity is owned by one person or entity at one location;

(B) A facility whose production capacity is less than 80 megawatts; and

(C) A facility which derives more than 50% of its energy input from biomass, wastes, renewable resources or any combination thereof, but with less than 25% of its total energy being derived from oil, natural gas and/or coal;

(x) Rate: any price, rate, charge or classification made, demanded, observed or received with respect to the sale or purchase of electric energy or capacity, or any rule, regulation or practice respecting any such rate, charge or classification, and any contract pertaining to the sale or purchase of electric energy or capacity;

(xi) Sale: the sale of electric energy or capacity or both by an electric utility to a qualifying facility;

(xii) Supplementary power: electric energy or capacity supplied by an electric utility, regularly used by a qualifying facility in addition to that which the facility generates itself;

(xiii) System emergency: a condition on a utility's system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property;

#### **Section 4. Incorporation by Reference.**

(a) For any code, standard, rule or regulation incorporated by reference in these Rules:

(i) The Commission has determined that incorporation of the full text in these Rules would be cumbersome or inefficient given the length or nature of the Rules;

(ii) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (b) of this section;

(iii) The incorporated code, standard, rule or regulation is maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying, at cost, at the same location.

(b) Each code, standard, rule or regulation incorporated by reference in these Rules is further identified as follows:

(i) Wyoming Rules of Civil Procedure, Rule 7(b) and 16, in effect on March 1, 2017. Copies can be obtained from the following designated depository library: Wyoming State Library, 2800 Central Avenue, Cheyenne, WY 82002; or at: [https://www.courts.state.wy.us/wp-content/uploads/2017/05/WYOMING\\_RULES\\_OF\\_CIVIL\\_PROCEDURE.pdf](https://www.courts.state.wy.us/wp-content/uploads/2017/05/WYOMING_RULES_OF_CIVIL_PROCEDURE.pdf)  
[https://www.courts.state.wy.us/court\\_rule/wyoming-rules-of-civil-procedure/](https://www.courts.state.wy.us/court_rule/wyoming-rules-of-civil-procedure/);

(ii) Uniform Rules for District Courts of the State of Wyoming, Rule 104, in effect on May 13, 2014. Copies can be obtained from the following designated depository library: Wyoming State Library, 2800 Central Avenue, Cheyenne, WY 82002; or at: [https://www.courts.state.wy.us/wp-content/uploads/2017/05/UNIFORM\\_RULES\\_FOR\\_DISTRICT\\_COURTS\\_OF\\_THE\\_STATE\\_OF\\_WYOMING.pdf](https://www.courts.state.wy.us/wp-content/uploads/2017/05/UNIFORM_RULES_FOR_DISTRICT_COURTS_OF_THE_STATE_OF_WYOMING.pdf)  
[https://www.courts.state.wy.us/court\\_rule/uniform-rules-for-district-courts-of-the-state-of-wyoming-2/](https://www.courts.state.wy.us/court_rule/uniform-rules-for-district-courts-of-the-state-of-wyoming-2/);

(iii) The Code of Federal Regulations, Title 7, Parts 1700 through 1794, ~~in effect on January 1, 2018~~; Title 18, Parts 101, and 292, ~~in effect on April 1, 2018~~; Title 47, Parts 4.5, 54.5, 54.1307, 54.400 and 68, ~~in effect on October 1, 2017~~; Title 49, Parts 40, 191, 192, 193, 198, and 199, in effect on ~~October 1, 2017~~ July 1, 2020. Copies of these regulations can be obtained from the designated depository library: Wyoming State Library, 2800 Central Avenue, Cheyenne, WY 82002, or at: <http://www.ecfr.gov/gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>;

(iv) Federal Bankruptcy Act of 1978, 11 U.S.C. §§ 101 through 1532; National Energy Act of 1978, 16 U.S.C. §§ 2601 through 2645; National Energy Conservation Policy Act, 42 U.S.C. §§ 8231 through 8236(b); and the Telecommunications Act of 1996, 47 U.S.C. §§ 214(e), and 254(f), in effect on ~~June 25, 2018~~ December 1, 2019. Copies of the Act can be obtained from the following designated depository library: Wyoming State Library, 2800 Central Avenue, Cheyenne, WY 82002, or at: <http://uscode.house.gov/>;

(v) The Cellular Telecommunication and Internet Association (CTIA) Consumer Code, effective December 2013. Copies of the Consumer Code can be obtained from

~~the~~ by contacting CTIA at 1400 16th Street, NW Suite 600, Washington, DC 20036; or at: <http://www.ctia.org/>;

(vi) American National Standards Institute (ANSI) Codes and Standards, in effect ~~up to on August 28, 2018~~ July 1, 2020. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or for purchase at: <http://www.ansi.org/>;

(vii) American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code, 2017 and 2019 editions. Copies of these regulations can be obtained from the designated depository library: Wyoming State Library, 2800 Central Avenue, Cheyenne, WY 82002, or ~~Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location,~~ or is available for purchase at: <https://www.asme.org/>;

(viii) 2017 National Electrical Safety Code (NESC). Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or is available for purchase at: <http://standards.ieee.org/index.html>;

(ix) ~~2017~~ 2020 National Electric Code (NEC). Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or is available for purchase at: <http://www.nfpa.org/>;

(x) Western Electric Coordinating Council (WECC) Standards, in effect on ~~July 9, 2018~~ 1, 2020. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or at: <https://www.wecc.org/biz/Pages/home.aspx>;

(xi) North American Electric Reliability Corporation (NERC) Standards, in effect on ~~July 1, 2018~~ 2020. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or at: <http://www.nerc.com/Pages/default.aspx>;

(xii) National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts for Class A, B, C and D water utilities, in effect on December 31, 2007. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or is available for purchase at: <http://www.naruc.org/>;

(xiii) American Water Works Association (AWWA) Standards, in effect ~~up to on August 28, 2018~~ July 1, 2020. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or is available for purchase at: <http://www.awwa.org/>;

(xiv) International Electrotechnical Commission (IEC) Standards, in effect up to ~~on August 28, 2018~~ July 1, 2020. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or is available for purchase at: <http://www.iec.ch/>;

(xv) International Organization for Standardization (ISO) Standards, in effect up to ~~on x x, 2018~~ July 1, 2020. Copies are maintained at the Commission's offices at 2515 Warren Avenue, Suite 300 in Cheyenne, WY and is available for public inspection and copying at cost at the same location, or is available for purchase at: <http://www.iso.org/iso/home.html>.

**CHAPTER 2**  
**UNIFORM RULES FOR CONTESTED CASE PRACTICE AND PROCEDURE**

**Section 1. Authority and Scope.**

(a) These Rules are promulgated by authority of Wyoming Statute § 16-3-102(d). These Rules shall govern all contested case proceedings before all agencies to the extent they are adopted, and shall be relied upon by hearing officers, adjudicative agencies and parties in all contested cases before any agency. Agencies may develop forms not inconsistent with these Rules.

(b) Except as specified below, the Uniform Rules for Contested Case Practice and Procedure have been adopted by the Commission and are re-stated here for ease of those appearing before the Commission.

(i) Sections not adopted:

(A) Section 4;

(B) Section 6; and

(C) Section 19.

(ii) Sections replaced:

(d) (repealed);  
(A) Section 11(b) has been replaced with Commission Rule 104(b) and

(B) Section 20 has been replaced with Commission Rule 118 (repealed);

(C) Section 22(a)(iii) has been replaced with Commission Rule 115(b)(v) (repealed); and

(D) Section 25 has been replaced with WPSC Rule 119 (repealed).

(iii) Sections added:

(A) Section 30 is Commission Rule 120 (repealed); and

(B) Section 31 is a new provision.

**Section 2. Definitions.**

The following definitions shall apply to this Chapter:



(a) “Adjudicative agency” means an agency authorized to conduct and preside over its own contested cases;

(b) “Agency” means any authority, bureau, board, commission, department, division of the state, or other entities that are statutorily authorized to refer cases to the Office;

(c) “Attorney” means an attorney licensed to practice law in the State of Wyoming or, an attorney who is licensed to practice law in another state and who is associated with an attorney licensed to practice law in the State of Wyoming;

(d) “Contested case” means a proceeding in which legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing;

(e) “Hearing officer” means a hearing examiner from the Office, a presiding officer of any agency, an attorney who has been retained by an agency to preside over a contested case, an officer of any agency who has been designated to preside over a contested case, or any other person who is statutorily authorized to preside over a contested case;

(f) “Hearing panel” means those members of an agency or adjudicative agency who are designated and authorized to make a final decision in a contested case;

(g) “Office” means the Office of Administrative Hearings;

(h) “Referring agency” means any agency which has referred a contested case for hearing before the Office or before another hearing officer;

(j) “Representative” means an individual other than an attorney who is authorized to function in a representative capacity on behalf of a party to a contested case; and

(k) “Wyoming Administrative Procedure Act” means Wyoming Statute §§ 16-3-101 through -115.

### **Section 3. Incorporation by Reference.**

(a) The code, standard, rule or regulation below is incorporated by reference and can be found at: <http://www.courts.state.wy.us/WSC/CourtRule?RuleNumber=48>

(i) Rule 12(b)(6), Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on April 11, 1995;

(ii) Rule 24, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on February 11, 1971;

(iii) Rule 45, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on October 1, 2009;

(iv) Rule 52, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on July 1, 2000;

(v) Rule 56, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on October 11, 1964;

(vi) Rule 56.1, Wyoming Rules of Civil Procedure, adopted by the Wyoming Supreme Court and in effect on July 1, 2008;

(b) No later amendments to a code, standard, rule or regulation listed in subsection (a) of this section are incorporated by reference.

#### **Section 4. Informal Proceedings and Alternative Dispute Resolution.**

Not adopted.

#### **Section 5. Commencement of Contested Case Proceedings.**

(a) A contested case shall be commenced by filing a timely request for a hearing of any agency action or inaction, or the filing of an application, petition, complaint or other document which, as a matter of law, entitles the petitioner, applicant, complainant, or respondent an opportunity to be heard.

(b) At the commencement of every contested case, an agency or hearing officer shall issue a notice of hearing including a statement of:

- (i) the time, place and nature of the hearing;
- (ii) the legal authority and jurisdiction under which the hearing is to be held;
- (iii) the particular sections of the statutes and rules involved; and

(iv) a short and plain statement of the matters asserted. If the agency or hearing officer is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved and, thereafter, upon application, a more definite and detailed statement shall be furnished.

#### **Section 6. Referral to Office.**

Not adopted.

#### **Section 7. Referral to Hearing Officer Other Than the Office.**

When an agency refers a contested case to a hearing officer other than the Office or when an adjudicative agency retains a contested case, the agency shall comply with any referral requirements of that hearing officer or adjudicative agency.

## **Section 8. Designation and Authority of Hearing Officer; Recusal.**

(a) Any agency may refer, assign, or designate a hearing officer to preside over any contested case, unless otherwise provided by law. When appropriate under applicable law or at the referring agency's request, the hearing officer may provide either a recommended or final decision.

(b) Upon referral for contested case by a referring agency that will not be present for the hearing, a hearing officer shall conduct a contested case and may enter proposed findings of fact and conclusions of law or may provide a complete record of the contested case to the referring agency for entry of a final decision.

(c) At any time while a contested case is pending, a hearing officer or hearing panel member may withdraw from a contested case by filing written notice of recusal. From and after the date the written notice of recusal is entered, the recused hearing officer or hearing panel member shall not participate in the contested case.

(d) Upon motion of any party, recusal of a hearing officer or hearing panel member shall be for cause. Whenever the grounds for such motion become known, any party may move for a recusal of a hearing officer or hearing panel member on the ground that the hearing officer or hearing panel member:

(i) has been engaged as counsel in the action prior to being appointed as hearing officer or hearing panel member;

(ii) has an interest in the outcome of the action;

(iii) is related by consanguinity to a party;

(iv) is a material witness in the action;

(v) is biased or prejudiced against the party or the party's attorney or representative; or

(vi) any other grounds provided by law.

(e) A motion for recusal shall be supported by an affidavit or affidavits of any person or persons, stating sufficient facts to show the existence of grounds for the motion. Prior to a hearing on the motion, any party may file counter-affidavits. The motion shall be heard by the hearing officer or, at the discretion of the hearing officer, by another hearing officer. If the motion is granted, the hearing officer shall immediately designate another hearing officer to preside over the contested case or shall excuse the hearing panel member(s).

(f) A hearing officer shall not be subject to a voir dire examination by any party.

(g) Subject to limitations imposed by the hearing officer, any party may be permitted to conduct a voir dire examination of a hearing panel.

### **Section 9. Appearances and Withdrawals.**

(a) A party, whether it be an individual, corporation, partnership, governmental organization or other entity may appear through an attorney or representative. An individual may represent himself/herself. An individual or entity seeking to intervene in a contested case under Rule 24 of the Wyoming Rules of Civil Procedure, may appear through an attorney or representative prior to a ruling on the motion to intervene.

(b) Prior to withdrawing from a contested case, an attorney shall file a motion to withdraw. The motion for an attorney's withdrawal shall include a statement indicating the manner in which notification was given to the client and setting forth the client's last known address and telephone number. The hearing officer shall not grant the motion to withdraw unless the attorney has made reasonable efforts to give actual notice to the client that:

- (i) the attorney wishes to withdraw;
- (ii) the client has the burden of keeping the hearing officer informed of the address where notices, pleadings or other papers may be served;
- (iii) the client has the obligation to prepare, or to hire another attorney or representative to prepare, for the contested case and the dates of proceedings;
- (iv) the client may suffer an adverse determination in the contested case if the client fails or refuses to meet these burdens;
- (v) the pleadings and papers in the case shall be served upon the client at the client's last known address; and
- (vi) the client has the right to object within 15 days of the date of notice.

(c) Prior to withdrawing from a contested case, a representative shall provide written notice of withdrawal to the hearing officer and the agency.

### **Section 10. Ex Parte Communications.**

Except as authorized by law, a party or a party's attorney or representative shall not communicate with the hearing officer or hearing panel member in connection with any issue of fact or law concerning any pending contested case, except upon notice and opportunity for all parties to participate. Should ex parte communication occur, the hearing officer or hearing panel member shall advise all parties of the communication as soon as possible thereafter and, if requested, shall allow any party an opportunity to respond prior to ruling on the issue.

## **Section 11. Filing and Service of Papers.**

(a) In all contested cases, the parties shall file all original documents, pleadings and motions with the referring agency or adjudicative agency, as applicable, with true and correct copies of the particular document, pleading or motion properly served on all other parties and the hearing officer, accompanied by a certificate of service. The referring agency or adjudicative agency shall maintain the complete original file, and all parties and the hearing officer shall be provided copies of all contested case documents, pleadings and motions contained therein.

(b) Unless otherwise ordered, all filings with the Commission shall be made electronically as provided on the Commission's website. The signed original filing, ~~plus four copies, are required to~~ must be filed within three days of electronic filing. All filings shall:

- (i) Be addressed to the Commission;
- (ii) Designate the Commission docket number if known;
- (iii) State the name, address and telephone number of the party;
- (iv) Be accompanied by required fees;
- (v) Be typed, printed or otherwise legibly reproduced on 8 ½ by 11 inch paper with 1 inch margins; and
- (vi) Be signed by either an authorized signatory of a party or an attorney licensed to practice law in the State of Wyoming.

(c) The Commission may reject the filing if the Commission determines it to be deficient.

(d) The date of filing is the earlier of the transmission of the electronic filing or the receipt of the paper original and copies by the Commission. Any filing received after 5 p.m. shall be deemed made on the next business day.

(e) Amendments that materially or substantially alter the initial filing may be re-noticed under W.A.P.A. The receipt of the renoticed amended filing will be considered the initial filing date.

## **Section 12. Computation of Time.**

(a) In computing any period of time prescribed or allowed by these Rules, by order or by any applicable statutes or regulations, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, or, when the act to be done is the filing of a paper, a day on which weather or other conditions have made agency

offices inaccessible, in which event the period runs until the end of the following day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. As used in this Rule, "legal holiday" includes any day officially recognized as a legal holiday in this state by designation of the legislature or appointment as a holiday by the governor.

(b) Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon the party, and the notice or paper is served upon the party by mail or by delivery to the agency for service, three days shall be added to the prescribed period.

### **Section 13. Motions and Motion Practice.**

(a) Unless these Rules or an order of the hearing officer establish time limitations other than those contained herein, all motions except motions for enlargement of time and motions made during hearing, shall be served at least 10 days before the hearing on the motion. A party affected by the motion may serve a response, together with affidavits, if any, at least three days prior to the hearing on the motion or within 20 days after service of the motion, whichever is earlier. Unless the hearing officer permits service at some other time, the moving party may serve a reply, if any, at least one day prior to the hearing on the motion or within 15 days after service of the response, whichever is earlier. Unless the hearing officer otherwise orders, any party may serve supplemental memoranda or rebuttal affidavits at least one day prior to the hearing on the motion.

(b) A request for hearing may be served by the moving party or any party affected by the motion within 20 days after service of the motion. The hearing officer may determine such motion without a hearing.

### **Section 14. Setting Hearings, Other Proceedings and Location of Hearings.**

(a) The hearing officer or adjudicative agency, as applicable, shall assign a docket number to each contested case. All papers, pleadings, motions and orders filed thereafter shall contain:

- (i) a conspicuous reference to the assigned docket number;
- (ii) a caption setting forth the title of the contested case and a brief designation describing the document filed; and
- (iii) the name, address, telephone number and signature of the person who prepared the document.

(b) The hearing officer shall set the course of proceedings, which may include, but is not limited to, scheduling informal conferences, confidentiality issues, summary disposition deadlines, motion practice, settlement conferences and the evidentiary hearing.

(c) Prehearing conferences may be held at the discretion of the hearing officer. Any

party may request a prehearing conference to address issues such as discovery, motion deadlines, scheduling orders or status conferences.

(d) At the hearing officer's discretion, and unless otherwise provided by the referring agency, telephone or videoconference calls may be used to conduct any proceeding. At the discretion of the hearing officer, parties or their witnesses may be allowed to participate in any hearing by telephone or videoconference.

(e) The hearing officer shall determine the location for proceedings.

### **Section 15. Consolidation.**

A party may seek consolidation of two or more contested cases by filing a motion to consolidate in each case sought to be consolidated. If consolidation is ordered, and unless otherwise ordered by the hearing officer, all subsequent filings shall be in the case first filed, and all previous filings related to the consolidated cases shall be placed together under that case number. Consolidation may be ordered on a hearing officer's own motion.

### **Section 16. Continuances, Extensions of Time and Duty to Confer.**

(a) A motion for a continuance of any scheduled hearing shall be in writing, state the reasons for the motion, and be filed and served on all parties and the hearing officer. A request for a continuance filed less than five days before a scheduled hearing shall be granted only upon a showing of good cause.

(b) A motion for an extension of time for performing any act prescribed or allowed by these Rules or by order of the hearing officer shall be filed and served on all parties and the hearing officer prior to the expiration of the applicable time period. A motion for extension of time shall be granted only upon a showing of good cause.

(c) A moving party shall make reasonable efforts to contact all parties, representatives, and attorneys before filing a motion for continuance or extension of time. A motion for continuance or extension of time shall include a statement concerning efforts made to confer with the other party(s) and position(s) on the motion.

(d) Continuances relating to mediation shall be made no later than 30 days prior to the date of the hearing.

### **Section 17. Discovery.**

(a) The taking of depositions and discovery shall be in accordance with Wyoming Statute § 16-3-107(g).

(b) Unless the hearing officer or adjudicative agency orders otherwise, parties shall not file discovery requests, answers, and deposition notices with the hearing officer or adjudicative agency.

**Section 18. Subpoenas.**

Any party may request the hearing officer to issue a subpoena to compel the attendance of a witness or for the production of documents. Requests for the issuance of a subpoena shall be accompanied by a completed subpoena, which shall conform to Rule 45 of the Wyoming Rules of Civil Procedure.

**Section 19. Summary Disposition.**

Not adopted.

**Section 20. Prehearing Procedures.**

The Commission or presiding officer may direct the attorneys for the parties and any unrepresented parties to appear for a conference or conferences before a hearing in accordance with W.R.C.P. Rule 16.

**Section 21. Burden of Proof.**

The hearing officer shall assign the burden of proof in accordance with applicable law.

**Section 22. Evidence.**

(a) The hearing officer shall rule on the admissibility of evidence in accordance with the following:

(i) Evidence of the type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

(ii) Evidence may be offered through witness testimony or in documentary form;

(iii) Hearings shall generally be conducted as follows:

(A) The presiding officer may allow into evidence, after appropriate filing and service, the written testimony of a witness in question and answer form. The testimony shall have line numbers inserted at the left margin and shall be authenticated by affidavit of the witness. If admitted, the testimony shall be marked and incorporated into the record as existing without being read into the record. Parties shall have full opportunity to cross-examine the witness on the testimony. The presiding officer may require additional written testimony during the pendency of a case;

(iv) The rules of privilege recognized by Wyoming law shall be given effect;  
and



(v) A hearing officer may take administrative notice of judicially cognizable facts, provided the parties are properly notified of any material facts noticed.

(b) Each party shall have the opportunity to cross-examine witnesses. The hearing officer may allow cross-examination on matters not covered on direct examination.

(c) The hearing officer, the hearing panel, agency staff or other persons delegated to do so by the hearing officer or hearing panel, when applicable, may ask questions of any party or witness.

### **Section 23. Contested Case Hearing Procedure.**

(a) The hearing officer shall conduct the contested case and shall have discretion to direct the order of the proceedings.

(b) Unless otherwise provided by law, and at the hearing officer's discretion, the party with the burden of proof shall be the first to present evidence. All other parties shall be allowed to cross-examine witnesses in an orderly fashion. When that party rests, other parties shall then be allowed to present their evidence. Rebuttal and surrebuttal evidence shall be allowed only at the discretion of the hearing officer.

(c) The hearing officer shall have discretion to allow opening statements and closing arguments.

### **Section 24. Default.**

Unless otherwise provided by law, a hearing officer may enter an order of default or an order affirming agency action for a party's failure to appear at a lawfully noticed hearing.

### **Section 25. Settlements.**

Any matter may be disposed of by stipulation, settlement or consent order upon approval of the Commission.

### **Section 26. Expedited Hearing.**

(a) At the hearing officer's or hearing panel's discretion, a contested case may be heard as an expedited hearing upon the motion of any party. Expedited hearings may include summary suspensions under Wyoming Statute § 16-3-113(c) and other emergency proceedings authorized by law.

(b) An expedited hearing shall be decided on written arguments, evidence, and stipulations submitted by the parties. A hearing officer or hearing panel may permit oral arguments upon the request of any party.

(c) The hearing officer or hearing panel may require an evidentiary hearing in any case in which it appears that facts material to a decision in the case cannot be properly determined by an expedited hearing.

### **Section 27. Recommended Decision.**

In those contested cases where the hearing officer makes a recommended decision, the hearing officer shall file the recommended decision with the referring agency and serve copies of the recommended decision on all parties to the contested case. Unless otherwise ordered, parties shall have ten days to file written exceptions to the hearing officer's recommended decision. Written exceptions shall be filed with the referring agency and served on all parties.

### **Section 28. Final Decision.**

(a) A final decision entered by a hearing officer or adjudicative agency shall be in writing, filed with the referring agency and served upon all parties to the contested case. A final decision entered by the referring agency or adjudicative agency shall be served upon all parties and the hearing officer.

(b) A final decision shall include findings of fact and conclusions of law, separately stated. When the hearing officer allows the parties to submit a proposed final order, the parties shall forward the original to the agency and serve copies of the proposed order on all other parties and the hearing officer.

(c) A hearing officer or adjudicative agency may at any time prior to judicial review, correct clerical errors in final decisions or other parts of the record. A party may move that clerical errors or other parts of the record be corrected. During the pendency of judicial review, such errors may be corrected only with leave of the court having jurisdiction.

### **Section 29. Record of Proceeding.**

The referring agency or adjudicative agency shall make appropriate arrangements to assure that a record of the proceeding is kept pursuant to Wyoming Statute § 16-3-107(o) and (p). Copies of the transcript taken at any hearing may be obtained by any party, interested person, or entity from the court reporter taking the testimony at such fee as the reporter may charge.

### **Section 30. Confidentiality of Information.**

(a) Upon petition, and for good cause shown, the Commission shall deem confidential any information filed with the Commission or in the custody of the Commission or staff which is shown to be of the nature described in Wyoming Statute §16-4-203(a), (b), (d) or (g). All information for which confidential treatment is requested shall be treated as confidential until the Commission rules whether, and to what extent, the information shall be given confidential treatment.

(b) Any person requesting confidential treatment of information (except as directed by

the Commission in investigative and discovery matters) shall file a petition that includes the following information:

(i) The assigned docket, if applicable.

(ii) Title the filing as: Petition for Confidential Treatment of \_\_\_\_\_.

(iii) Numbered listings and explanations in adequate detail to support why confidentiality should be authorized for each item, category, page, document or testimony. Each item, category or page of proposed confidential information shall be attached to the Petition and numbered in the right hand margin so that numbering corresponds with the numbering and detailed explanation(s) in the Petition. If only part of a page, or intermittent parts of pages, are requested to be kept confidential, these should be set off by brackets identified with an item number or numbers. Each page containing information for which confidential treatment is requested shall be printed on yellow paper and marked or stamped at the top in capital letters: CONFIDENTIAL INFORMATION.

(iv) A request for return or other final disposition of the information.

(c) All information deemed confidential under this Rule shall be retained in secure areas of the Commission's offices.

(d) If the person petitioning for confidential treatment of information intends that parties in a case have access thereto, upon signing a statement that the information shall be treated as confidential, the petitioner shall prepare a proposed protective order for the Commission's approval with an attached form to be signed by the parties and made part of the Commission's permanent case file.

(e) Information in the Commission's confidential files shall be retained for the period determined by the Commission. On an appeal of a Commission final order, any confidential information included in the record shall be sealed and delivered to the court pursuant to the W.A.P.A.

(f) The Commission may consider oral petitions for confidential treatment of information when the public interest requires.

### **Section 31. Deliberations and Order.**

(a) All deliberations of the Commission shall be held in public in accordance with Wyoming law.

(b) Upon reaching its decision, the Commission shall direct the drafting of an order, which upon signature of at least two Commissioners, shall become a final order. Dissenting or concurring opinions may be filed with the final order.