

## **R1-21 CONDUCT OF HEARINGS AND INVESTIGATIONS**

(a) Open to the Public. — All formal hearings and investigations shall be open to the public.

(b) Notice.

- (1) Proceedings in Which There Is Only One Party. — In proceedings in which there is only one party, hearings may be held at any time convenient to the Commission and to the party to the proceeding, with or without a public notice, in the discretion of the Commission.
- (2) Posting of Notice. — In addition to other notice of hearings required by statute, notice of the date and place of all public hearings shall be posted on the bulletin board in the Office of the Chief Clerk of the Commission at least ten (10) days in advance of the date set for the hearing. Notice of all postponements of such hearings shall immediately be posted on said bulletin board.
- (3) Publication of Notice. — In formal proceedings the Commission may, at its discretion, in addition to other notice, give or require to be given general notice of the substance of the application, petition, or complaint and the date and place of the hearing in a newspaper, or newspapers, for such length of time as the Commission may designate.
- (4) Mailing Lists. — General mailing lists for copies of applications, petitions, protests, notices or orders will not be maintained but persons interested in specific matters under investigation should request the Commission to place their names on the mailing lists in connection with such specific matters.

(c) Motions. — Any motion made at the instance of an adverse party, the granting of which will summarily terminate a hearing of a cause, or necessitate the postponement of the same, must be filed with the Commission in writing at least ten (10) days before the date set for the hearing, which motion shall certify that a copy thereof has been served upon each party of record in the cause, or upon their attorneys of record in accordance with Rule R1-39. This rule shall not apply to motions which necessarily arise during the course of the hearing to which they relate.

(d) Procedure at Hearings. — Hearings shall be conducted by and before the Full Commission, Commission Panel, Commissioner or Examiner as provided in G.S. 62-76, and except as otherwise directed in the particular case, the presiding Commissioner or Examiner:

- (1) Shall call the proceeding for hearing, giving the title of the proceeding, its docket number, and the nature and purpose of the hearing;
- (2) Shall cause to be entered in the record the kind of notice given of the time, place, and nature of the hearing, and the date or dates such notice was given;
- (3) Shall take the appearances, which shall be filed in writing with the court reporter and shall also be stated orally for the record.

(e) Order of Receiving Evidence. — Unless otherwise directed by the presiding Commissioner or Hearing Examiner, evidence will ordinarily be received in the following order:

- (1) Upon investigation on motion of the Commission: (i) Commission Staff, (ii) Public Staff, (iii) Respondent, and (iv) rebuttal by Commission Staff or Public Staff.
- (2) In investigation and suspension proceedings: (i) Respondent, (ii) Public Staff, (iii) Commission Staff, (iv) Protestants, and (v) rebuttal by Respondent.
- (3) Upon applications and petitions: (i) Applicants or Petitioners, (ii) Protestants, (iii) Public Staff, (iv) Commission Staff, and (v) rebuttal by Applicant or Petitioner.
- (4) Upon investigations after motion by the Public Staff: (i) Public Staff, (ii) Respondent, (iii) Intervenors, (iv) Commission Staff, and (v) rebuttal by Public Staff.
- (5) Upon formal complaints: (i) Complainant, (ii) Defendant, (iii) Public Staff, (iv) Commission Staff, and (v) rebuttal by Complainant.
- (6) Upon order to show cause: (i) Commission Staff, (ii) Public Staff, (iii) Respondent, and (iv) rebuttal by Commission Staff.

(f) Testimony by Public Staff or Commission Staff.

- (1) Investigations made by the Public Staff or Commission Staff in any pending proceeding shall be reported to the Commission in writing, a true and correct copy of which shall be filed with the official records of the proceeding at least twenty (20) days prior to the hearing of the cause, and may be inspected by any party to the proceeding or by any other person.
- (2) Such report may be offered in evidence by any party to the proceeding, or by the Commission, subject to the same rules of evidence that apply to other exhibits offered in evidence.

(g) Public Witness Testimony.

- (1) Witnesses must register his or her name on a sign-up sheet in the hearing room prior to his or her testimony.

- (2) After calling the hearing to order as provided in section (d), the presiding Commissioner or Examiner shall outline the procedure to be followed for testimony and shall establish hearing room decorum standards.
- (3) Witnesses will be called according to the order of registration on the sign-up sheet. The presiding Commissioner or Examiner reserves the right to re-order the witnesses in order to provide the Commission with a full spectrum of opinions and ideas.
- (4) Each witness shall state his or her name and address and the association, if any, that he or she represents at the time of his or her testimony. The presiding Commissioner or Examiner may limit the scope of the testimony to matters specified in the notice of public hearing.
- (5) To allow each witness an equal amount of time to testify or to prevent cumulative, repetitive, irrelevant or unnecessary testimony, the presiding Commissioner or Examiner may establish time limits for the presentation of testimony within his or her discretion and may limit testimony to five minutes or less per witness.
- (6) Any witness testifying may extend his or her remarks in written form, but written testimony must be submitted at the time of his or her oral testimony at the public hearing. Any witness may submit written testimony in lieu of oral testimony, but any written testimony must be submitted by the witness during the public hearing and subject to cross-examination.
- (7) Only one witness may testify at a time and shall refrain from testifying to matters not specified in the notice of public hearing. Witnesses are providing testimony to the Commission and should not address non-Commission participants in the hearing room and may not ask questions. As testimony must be recorded, the presiding Commissioner or Examiner may limit unconventional modes of testimony to ensure accuracy of the record.
- (8) To allow all witnesses to be heard and properly transcribed by the court reporter, the presiding Commissioner or Examiner shall have the right to instruct the removal of any member of the audience attempting to participate either verbally or visually during testimony. Members of the audience shall not bring signs or placards into the hearing room.
- (9) The presiding Commissioner or Examiner, at his or her discretion, may modify the rules for public witness testimony.

(h) Transcript. — The transcript of matters heard before the Commission or before an Examiner shall contain the docket number, date of hearing, title of the cause, testimony offered, objections, rulings on objections, exceptions, and such motions, rulings, and orders as may be made during the course of the hearing. Unless directed by the Commission or the Examiner, the reporter's transcript of the proceedings shall not include oral arguments or contentions of the parties. Copies of transcripts will not be furnished parties unless written order therefor shall have been given to the court reporter prior to or at the close of the hearing.

(i) Discussion Pending Decision. — After the close of the hearing it is improper for the parties to discuss the case with the Commission pending the decision, or to induce others to do so by letter, wire, or by any other means. G.S. 62-70 prohibits ex parte contacts without notice to all other parties.

(j) Notice of Orders and Decisions. — When an order or decision of the Commission, or the report and recommended order of an Examiner, as the case may be, is ready to be made and entered in the cause, copies thereof shall be mailed, delivered or transmitted by electronic mail to all parties to the proceeding or their attorneys. Copies to parties against whom such order or decision runs shall be under seal of the Commission and shall be mailed to such parties by registered or certified mail unless the Commission shall direct service by some other means authorized by law. Any party against whom such order or decision runs may consent to service of those orders or decisions by electronic mail in lieu of being served personally or by registered or certified mail by filing a written waiver and consent to receive service by electronic mail with the Clerk; provided, such consent shall remain effective until thirty days after the party has notified the Commission in writing that its consent to receive service by electronic mail has been revoked. The Commission may serve other parties to the proceeding by first class mail or electronic mail. (G.S. 62-63 and G.S. 62-79.)

*(NCUC Docket No. M-100, Sub 29, 5/6/70; NCUC Docket No. M-100, Sub 75, 10/27/77; NCUC Docket No. M-100, Sub 133, 2/2/06; NCUC Docket No. M-100, Sub 134, 3/11/10; NCUC Docket No. M-100, Sub 143, 12/15/15.)*