

R1-24 EVIDENCE

(a) **Admissibility, Generally.** — Any evidence admissible under the General Statutes of North Carolina, or under the rules of evidence applicable in civil actions in the superior court of this State, will be admissible in investigations and hearings before the Commission.

(b) **Judicial Notice.** — The provision with respect to judicial notice set forth in G.S. 62-65(b) will apply to investigations and hearings before the Commission.

(c) **Stipulations.** — The parties to any proceeding or investigation before the Commission may, by stipulation in writing filed with the Commission or entered in the stenographic record at the time of the hearing, agree upon the facts or any portion thereof involved in the controversy, which stipulations shall be binding upon the parties thereto and may be regarded and used by the Commission as evidence at the hearing. It is desirable that the facts be thus agreed upon whenever practical. The Commission may, however, require proof by evidence of the facts stipulated to, notwithstanding the stipulation of the parties.

(d) **Prepared Statements.** — A witness may read into the record as his testimony statements of fact prepared by him, or written answers to questions of counsel; provided, such statements shall not include argument; provided, further, that before such statements are read or offered in evidence a copy thereof shall be delivered to the presiding officer, a copy to the reporter, and copies to opposing counsel, as may be directed by the presiding officer. The admissibility of such written statements or questions and answers shall be subject to the same rules as if such testimony were produced in the usual manner.

(e) **Abstracts of Documents.** — When documents are numerous, such as freight bills or bills of lading, and it is desired to offer in evidence more than a limited number of such documents as typical of the others, an abstract in an orderly manner of the relevant data from such documents shall be prepared and offered as an exhibit, giving other parties to the proceeding reasonable opportunity to examine both the abstract and the documents.

(f) **Hearing Exhibits, Generally.**

(1) **Size and Identification.** — It is desirable, when practical, that exhibits be on paper of uniform size not exceeding 8½" x 14", and that each exhibit be distinguished from other exhibits by a short title descriptive of the subject matter of the exhibit, by an identification number or letter and by the name of the witness, and that all exhibits produced by a single witness be assembled and bound together, properly indexed, and offered as a single exhibit.

(2) **Records and Documents.** — For the purpose of identification and for the purpose of the record on appeal, all records or documents in the files of the Commission and other matters of a documentary nature when offered and admitted in evidence must be read into the stenographic record of the proceeding, or a true copy thereof offered as an exhibit. Records or documents of more than one hundred words must be offered in the form of an exhibit.

(3) **Copies.** — Unless otherwise provided by Order of the Commission, an original plus 12 paper copies of each exhibit shall be provided for the use of the Commission, plus a copy for each party to the proceeding.

(g) **Pre-filed Expert Witness Testimony and Exhibits.**

(1) **Proposed Initial Direct Testimony to Be Reduced to Writing.** — The proposed initial direct testimony of an expert witness, including accountants, auditors and engineers, in rate cases and in other proceedings involving detailed and complicated computations, audits, cost studies, appraisals, tables of figures, graphs, charts, drawings, and other exhibits of a similar nature, shall be reduced to writing, which shall include a brief statement in narrative form of the qualifications of such witness (training and experience), and that the exhibits proposed to be offered in evidence were prepared by or under the direction of such witness. The witness shall explain in writing each exhibit in such detail as to make the same understandable.

(2) **Time of Filing.** — Except as provided below, the testimony for the applicant of such expert witnesses shall be filed with the Commission at least 60 days prior to the date set for the hearing in general rate cases, and at least 30 days prior to the date set for the hearing in all other cases. Testimony of such expert witness in rebuttal shall be prepared in the same manner and form, and shall be filed with the Commission at least 10 days prior to the date fixed for the hearing. The Commission Staff, Public Staff, Attorney General and all other Intervenor or Protestants shall file all testimony, exhibits and other information which is to be relied upon at the hearing 20 days in advance of the scheduled hearing. When filed, all such exhibits shall be made available immediately to adverse parties of record, and to others having an interest in the proceeding.

Class A & B electric, telephone, natural gas, water, and sewer utilities shall file with and at the time of any general rate case application all testimony, exhibits and other information upon which

any such utility will rely at the hearing. Class C water and sewer utilities shall file 45 days prior to the hearing on the general rate case application all testimony upon which such utility will rely. In general rate cases of Class A & B electric, telephone, natural gas, water and sewer utilities, the Commission Staff, Public Staff, Attorney General and all other Intervenors or Protestants shall file all testimony, exhibits and other information which is to be relied upon at the hearing 30 days in advance of the scheduled hearing, and any testimony for the utility in rebuttal shall be filed 15 days prior to the hearing.

- (3) Copies Required. — An original plus 12 paper complete copies of the testimony and exhibits of each expert witness, as required by this rule, shall be provided to the Commission for its use.
- (4) Procedure at Hearing. — The testimony of an expert witness, prepared and submitted as provided by this rule, may be identified by the witness, offered in evidence, and made a part of the record without further formality or further explanation, and the witness immediately tendered for cross-examination; provided, that any party to the proceeding shall have the right to object to or move to strike all or any part of such testimony by filing such objection or motion with the Commission in writing at least five (5) days prior to the date fixed for the hearing; provided further, that if upon such objection or motion all or any part of the proposed testimony is excluded, the party offering the same shall be allowed to offer other testimony in lieu of that excluded by the same or other witnesses without the necessity of advance filing.
- (5) Relief from Subdivisions (1) to (4). — Relief from the provisions of subdivisions (1) to (4) of this subsection may be granted by the Commission, after notice of hearing and before the date of hearing, in cases in which it appears by stipulation of counsel for the respective parties that the oral testimony or exhibits of expert witnesses will not be of such technical or complicated nature as to warrant a recess of the hearing for study and preparation of cross-examination.

(h) Subpoenas. — Subpoenas may be issued by the Commission on its own motion for the attendance of witnesses or for the production of books, records, and documents considered necessary for the information of the Commission, and may be issued at the instance of a party to the proceeding upon written request therefor; provided, that the request for the production of books, papers, records, and documents shall specify the books and records desired and purpose for which the same are desired.

(i) Letters, Telegrams and Petitions. — G.S. 62-65 requires the Commission to adhere to the rules of evidence applicable to civil actions in the superior court, insofar as practicable. Letters, telegrams and petitions sent to the Commission concerning matters pending before it for hearing violate the rules of evidence, and sending such communications to the Commission, or inducing others to do so, will not be looked upon with favor by the Commission.

(j) Numbering of Testimony Lines. — Each individual sheet of testimony and, where practical, exhibits and other supporting materials, of all parties shall have each line numbered in the left-hand margin and shall be punched to fit a three-ring binder. Written testimony shall also comply with the requirements of Rule R1-5(c).

(NCUC Docket No. M-100, Sub 23, 8/18/69; NCUC Docket No. M-100, Sub 29, 5/6/70; NCUC Docket No. M-100, Sub 35, 7/3/70; NCUC Docket No. M-100, Sub 56, 5/24/74; NCUC Docket No. M-100, Sub 58, 7/18/75; NCUC Docket No. M-100, Sub 64, 10/28/75; NCUC Docket No. M-100, Sub 75, 10/27/77; NCUC Docket No. W-100, Sub 12, 5/14/91; NCUC Docket No. W-100, Sub 12, 9/4/91; NCUC Docket No. M-100, Sub 128, 11/30/01; NCUC Docket No. M-100, Sub 136, 6/26/12; NCUC Docket No. W-100, Sub 58, 3/26/19; NCUC Docket No. M-100, Sub 153, 5/22/19; NCUC Docket No. M-100, Sub 147, 9/15/2023.)