

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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of the
GENERAL ASSEMBLY

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This issue contains notices, proposed regulations, emergency regulations, final form regulations, and other documents filed in the Office of the Legislative Council, pursuant to Article 1, Chapter 23, Title 1, Code of Laws of South Carolina, 1976.

SOUTH CAROLINA STATE REGISTER

An official state publication, the *South Carolina State Register* is a temporary update to South Carolina's official compilation of agency regulations--the *South Carolina Code of Regulations*. Changes in regulations, whether by adoption, amendment, repeal or emergency action must be published in the *State Register* pursuant to the provisions of the Administrative Procedures Act. The *State Register* also publishes the Governor's Executive Orders, notices or public hearings and meetings, and other documents issued by state agencies considered to be in the public interest. All documents published in the *State Register* are drafted by state agencies and are published as submitted. Publication of any material in the *State Register* is the official notice of such information.

STYLE AND FORMAT

Documents are arranged within each issue of the *State Register* according to the type of document filed:

Notices are documents considered by the agency to have general public interest.

Notices of Drafting Regulations give interested persons the opportunity to comment during the initial drafting period before regulations are submitted as proposed.

Proposed Regulations are those regulations pending permanent adoption by an agency.

Pending Regulations Submitted to the General Assembly are regulations adopted by the agency pending approval by the General Assembly.

Final Regulations have been permanently adopted by the agency and approved by the General Assembly.

Emergency Regulations have been adopted on an emergency basis by the agency.

Executive Orders are actions issued and taken by the Governor.

2007 PUBLICATION SCHEDULE

Documents will be accepted for filing on any normal business day from 8:30 A.M. until 5:00 P.M. All documents must be submitted in the format prescribed in the *Standards Manual for Drafting and Filing Regulations*.

To be included for publication in the next issue of the *State Register*, documents will be accepted no later than 5:00 P.M. on any closing date. The modification or withdrawal of documents filed for publication must be made **by 5:00 P.M.** on the closing date for that issue.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Submission Deadline	1/12	2/9	3/9	4/13	5/11	6/8	7/13	8/10	9/14	10/12	11/9	12/14
Publishing Date	1/26	2/23	3/23	4/27	5/25	6/22	7/27	8/24	9/28	10/26	11/23	12/28

REPRODUCING OFFICIAL DOCUMENTS

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PUBLIC INSPECTION OF DOCUMENTS

Documents filed with the Office of the State Register are available for public inspection during normal office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday. The Office of the State Register is in the Legislative Council, Fourth Floor, Rembert C. Dennis Building, 1000 Assembly Street, in Columbia. Telephone inquiries concerning material in the *State Register* or the *South Carolina Code of Regulations* may be made by calling (803) 212-4500.

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

To adopt, amend or repeal a regulation, an agency must publish in the *State Register* a Notice of Drafting; a Notice of the Proposed Regulation that contains an estimate of the proposed action's economic impact; and, a notice that gives the public an opportunity to comment on the proposal. If requested by twenty-five persons, a public hearing must be held at least thirty days after the date of publication of the notice in the *State Register*.

After the date of hearing, the regulation must be submitted to the General Assembly for approval. The General Assembly has one hundred twenty days to consider the regulation. If no legislation is introduced to disapprove or enacted to approve before the expiration of the one-hundred-twenty-day review period, the regulation is approved on the one hundred twentieth day and is effective upon publication in the *State Register*.

EMERGENCY REGULATIONS

An emergency regulation may be promulgated by an agency if the agency finds imminent peril to public health, safety or welfare. Emergency regulations are effective upon filing for a ninety-day period. If the original filing began and expired during the legislative interim, the regulation can be renewed once.

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

Regulations promulgated to comply with federal law are exempt from General Assembly review. Following the notice of proposed regulation and hearing, regulations are submitted to the *State Register* and are effective upon publication.

EFFECTIVE DATE OF REGULATIONS

Final Regulations take effect on the date of publication in the *State Register* unless otherwise noted within the text of the regulation.

Emergency Regulations take effect upon filing with the Legislative Council and remain effective for ninety days. If the original ninety-day period begins and expires during legislative interim, the regulation may be refiled for one additional ninety-day period.

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REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

In order by General Assembly review expiration date
The history, status, and full text of these regulations are available on the
South Carolina General Assembly Home Page: www.scstatehouse.net

DOC NO.	RAT FINAL NO. ISSUE	SUBJECT	EXP. DATE	AGENCY
3047	SR31-2	Milk Producers Tax Credit	1/15/07	Department of Agriculture
3057	SR31-2	Retail Licenses And Partnerships	2/01/07	Department of Revenue
3002	SR31-2	Shellfish	2/08/07	Department of Health and Envir Control
3059	SR31-3	Highway Advertising Control	3/06/07	Department of Transportation
3042	SR31-4	Practice and Procedures	3/20/07	Public Service Commission
3061	SR31-4	Termination of the SCAAIP Joint Underwriting Association	3/21/07	Department of Insurance
3052	SR31-4	Telecommunications Utilities	4/09/07	Public Service Commission
3055		Public Swimming Pools	5/09/07	Department of Health and Envir Control
3069		Air Pollution Control	5/09/07	Department of Health and Envir Control
3091		Procurement	5/09/07	Budget and Control Board
3092		Licensure CPA's & Practitioners, Registration Accounting Firms	5/09/07	LLR: Board of Accountancy
3073		Farmers Markets	5/09/07	Department of Agriculture
3063		Sewerage and Water Utilities	5/09/07	Public Service Commission
3080		Nursing Programs	5/09/07	LLR: Board of Nursing
3072		Reading, Writing, and Mathematics Objectives Grades 9-12	5/09/07	Department of Education
3090		Charter School Appeals	5/09/07	Department of Education
3089		At-Risk Students	5/09/07	Department of Education
3088		Defined Program, Grades 9-12	5/09/07	Department of Education
3087		Administrative and Professional Personnel	5/09/07	Department of Education
3084		Septic Tank Site Evaluation Fees	5/17/07	Department of Health and Envir Control
3085		Non-Game and Endangered Species	5/17/07	Department of Natural Resources
3083		Air Pollution Control	5/22/07	Department of Health and Envir Control
3093		Driver Training Schools	5/25/07	Department of Motor Vehicles
3094		Truck Driver Training Schools	5/25/07	Department of Motor Vehicles
3102		Practice of Psychology	5/30/07	LLR: Board of Examiners in Psychology
3103		Practice of Optometry	5/30/07	LLR: Board of Examiners in Optometry
3104		National Electrical Code	5/30/07	LLR: Building Codes Council
3105		Reporting Fatalities and Hospitalization Incidents to OSHA	5/30/07	LLR: Occupational Safety and Health
3086		Hunting in Wildlife Management Areas	6/06/07	Department of Natural Resources
3101		Req Protesting Beer /Wine Permits or Alcoholic Liquor Licenses	1/08/08	Department of Revenue
3100		Manufactured Homes and Modular Homes	1/08/08	Department of Revenue
3096		Hazardous Waste Management	1/14/08	Department of Health and Envir Control
3118		Mobile Dental Facilities and Portable Dental Operations	2/03/08	LLR: Board of Dentistry
3119		Educational Requirements	2/03/08	LLR: Real Estate Appraisers Board
3108		Intrastate Movement of Certain Animals	2/10/08	Clemson Univ, Livestock-Poultry Comm
3115		Preferred Mortality Tables, Minimum Reserve Liabilities	2/10/08	Department of Insurance
3116		Malpractice Insurance Claims	2/10/08	Department of Insurance
3117		Workers' Compensation Assigned Risk Rates	2/10/08	Department of Insurance
3109		Property Tax	2/19/08	Department of Revenue
3110		Restocking Fees	2/19/08	Department of Revenue
3079		Office Based Surgery	3/03/08	LLR: Board of Medical Examiners
3120		Hunting in Wildlife Management Areas	3/04/08	Department of Natural Resources
3113		Solid Waste Management	3/16/08	Department of Health and Envir Control

Committee Requested Withdrawal:

2927	The Practice of Selling and Fitting Hearing Aids	Department of Health and Envir Control
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Permanently Withdrawn:

3021	Penalties Noncompliance Regulated Child Care Settings	Department of Social Services
3022	Licensing of Residential Group Care Organ for Children	Department of Social Services
3056	End-of-Course Tests	Department of Education

Resolution Introduced to Disapprove

2 NOTICES

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL PUBLIC NOTICE NOTICE TO AMEND AIR QUALITY STATE IMPLEMENTATION PLAN

Statutory Authority: S.C. Code Section 48-1-10 *et seq.*

The Department is proposing to amend the State Implementation Plan (SIP) to meet obligations of the United States Environmental Protection Agency (EPA). Interested persons are invited to present their views in writing to Stacey R. Gardner, Regulatory Development Section, Bureau of Air Quality, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received by May 30, 2007, the close of the drafting comment period. The Department is also conducting a public hearing on this issue. The hearing will be held on May 30, 2007, at 10:00 am in room 2380 of the Aycock Building, 2600 Bull Street, Columbia, South Carolina. The public is invited to attend.

Synopsis:

On July 18, 1997, EPA promulgated National Ambient Air Quality Standards (NAAQS) for ozone and for fine particulate matter (PM_{2.5}). Section 110(a)(1) of the Clean Air Act (CAA) requires states to submit a new SIP to provide for the implementation, maintenance, and enforcement of new or revised NAAQS within three years after the promulgation of the new or revised NAAQS. Section 110(a)(2) explains what the new SIP must contain. The SIP for new or revised NAAQS must contain adequate provisions to address interstate transport of pollution, pursuant to section 110(a)(2)(D)(i).

States should have submitted SIPs to EPA for the 8-hour ozone NAAQS and the PM_{2.5} NAAQS by no later than July 2000. However, litigation over both of the standards created substantial uncertainty among the states and EPA as to how to proceed. Also, regarding PM_{2.5}, additional time was needed for creation of a monitoring network, collection of at least three years of data, and the analysis of those data.

On April 25, 2005, EPA published an action in the *Federal Register* [70 FR 21147] making a finding that states had failed to make the statutorily required SIP submissions for the 8-hour ozone and PM_{2.5} NAAQS. The EPA limited this finding of failure to submit to the requirements of section 110(a)(2)(D)(i) pertaining to interstate transport. This finding started a 24-month clock, as of May 25, 2005, for EPA to issue a final Federal Implementation Plan (FIP) to meet the requirements of section 110(a)(2)(D)(i) for both 8-hour ozone and PM_{2.5} unless the EPA approves a SIP to meet those requirements. Although South Carolina will not meet the May 25, 2007, SIP submission deadline due to our lengthy development process, EPA is working with the State to assist in the approval of the SIP.

The implementation of South Carolina's Clean Air Interstate Rule (CAIR), expected in the summer of 2007, will satisfy requirements pertaining to significant contribution to nonattainment and interference with maintenance of the 8-hour ozone standard in other downwind States. The additional SIP noticed today will address the Department's outstanding obligations for satisfying the requirement that the State must have a preconstruction review program for major sources and that the State must develop a SIP to protect visibility. This SIP will include acknowledgements that the State has in place a preconstruction review program for 8-hour ozone and PM_{2.5} containing prevention of significant deterioration and non-attainment new source review provisions. It also will state that South Carolina is on track to meet the required SIP submission adopting the Phase II ozone implementation rule for the York County, SC portion of the Charlotte-Gastonia-Rock Hill, NC-SC nonattainment area. A SIP for protecting visibility is being developed and should be submitted to the EPA prior to the December 17, 2007, deadline.

The Department proposes to amend the SIP to address the requirements of section 110(a)(2)(D)(i) as stated above.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

In accordance with Section 44-7-200(C), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication April 27, 2007, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Greenville County

Purchase and installation of a 64-slice Computed Tomography (CT) scanner to be located in the Patewood Medical Office Building C
Greenville Hospital System
Greenville, South Carolina
Project Cost: \$2,944,442

Affecting Lancaster County

Addition of one (1) operating room (OR) for a total of three (3) OR's and two (2) licensed endoscopy rooms restricted to gastrointestinal endoscopy procedures only
Carolina Surgery Center, LLC
Fort Mill, South Carolina
Project Cost: \$1,405,046

Affecting Lexington County

Addition of a fixed 1.5T Magnetic Resonance Imaging (MRI) unit to be located in Lexington Orthopedics
Lexington County Health Services District, Inc.
West Columbia, South Carolina
Project Cost: \$2,109,853

Affecting Oconee County

Construction for the addition of five (5) inpatient hospice beds for a total of fifteen (15) inpatient beds
OMH Hospice of the Foothills
Seneca, South Carolina
Project Cost: \$766,742

Affecting Spartanburg County

Replacement of the existing 1.0T Magnetic Resonance Imaging (MRI) unit with a 1.5T MRI unit and the replacement of the existing Dual Slice Computed Tomography (CT) scanner with a four (4) slice CT scanner
Piedmont Imaging, Inc.
Spartanburg, South Carolina
Project Cost: \$2,637,793

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In accordance with S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that the review cycle has begun for the following project(s) and a proposed decision will be made within 60 days beginning April 27, 2007. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Albert N. Whiteside, Director, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. For further information call (803) 545-4200.

Affecting Aiken County

Acquisition of the existing 176-bed nursing home, known as Mattie C. Hall Nursing Home by United Health Services of South Carolina, Inc.; the new licensee will be Heritage Healthcare at Mattie C. Hall, Inc.

Heritage Healthcare at Mattie C. Hall, Inc.

Aiken, South Carolina

Project Cost: \$8,448,000

Affecting Charleston County

Addition of a da Vinci "S" Surgical System to be housed in the existing surgical suite

Roper Hospital, Inc.

Charleston, South Carolina

Project Cost: \$1,976,153

Affecting Georgetown County

Addition of forty-two (42) general acute care beds and fourteen (14) comprehensive rehabilitation beds for a total of one hundred twenty-four (124) general acute care beds and forty-three (43) comprehensive rehabilitation beds

Waccamaw Community Hospital

Murrells Inlet, South Carolina

Project Cost: \$25,624,755

Affecting Greenville County

Replacement of the existing two-slice (2) Computed Tomography (CT) scanner at Greenville Memorial Hospital MOB with a sixteen-slice (16) CT scanner; the two-slice (2) CT scanner will be subsequently transferred to North Greenville Long Term Acute Care Hospital and will replace an existing single-slice CT scanner

Greenville Hospital System

Greenville, South Carolina

Project Cost: \$1,084,569

Affecting Lancaster County

Addition of one (1) operating room (OR) for a total of three (3) OR's and two (2) licensed endoscopy rooms restricted to gastrointestinal endoscopy procedures only

Carolina Surgery Center, LLC

Fort Mill, South Carolina

Project Cost: \$1,405,046

Affecting Lexington County

Replacement of the existing four-slice Computed Tomography (CT) scanner with a sixty-four slice CT scanner. The existing four-slice scanner will be retained and put into storage for future use

Lexington Medical Center

West Columbia, South Carolina

Project Cost: \$1,360,288

Affecting Richland County

Construction of a new seventy-six (76) bed acute care hospital by transferring seventy-six (76) acute care beds from Palmetto Health Baptist, which will result in two-hundred eighty-seven (287) acute care beds, one-hundred four (104) psychiatric beds and twenty-two (22) nursing home beds remaining at the existing hospital.

Palmetto Health Baptist Parkridge

Columbia, South Carolina

Project Cost: \$99,509,451

Addition of a da Vinci 'S' Surgical System to be located at Palmetto Health Richland in the existing surgical department

Palmetto Health Richland

Columbia, South Carolina

Project Cost: \$1,791,400

Construction and renovation to include an expanded Emergency Department (ED), addition of a 1.5T Magnetic Resonance Imaging (MRI) unit, and the addition of thirty-eight (38) general acute care beds for a total licensed bed capacity of eighty-four (84) general acute care beds

Providence Hospital Northeast

Columbia, South Carolina

Project Cost: \$81,811,228

Affecting Spartanburg County

Upfit of shelled space for the addition of one (1) operating room (OR)

Mary Black Memorial Hospital

Spartanburg, South Carolina

Project Cost: \$892,775

Establishment of a comprehensive Breast Health Center to be located on the first floor of Gibbs Regional Cancer Center at Spartanburg Regional Medical Center

Spartanburg Regional Healthcare System

Spartanburg, South Carolina

Project Cost: \$13,277,630

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF CANCELLATION AND RESCHEDULING OF PUBLIC HEARING

The Department of Health and Environmental Control issued a Notice of Proposed Regulation to revise the Department's Coastal Division Regulations 30-1 through 30-18 related to permitting in the critical areas of the coastal zone, in the State Register on January 26, 2007, identified as Document 3111. The proposed regulation as published in the State Register would amend definitions, specify the Department's policies regarding construction of docks and piers, and correct technical errors in language and codification for the overall

6 NOTICES

improvement of the regulations. The appeals procedure would also be revised to concur with Act 387 (2006). The Notice scheduled a Staff Informational Forum that was conducted on February 27, 2007, a write-in comment period that closed February 27, 2007, and a Public Hearing scheduled before the DHEC Board on April 12, 2007. No public comments were received at the informational forum or during the write-in public comment period. Due to scheduling conflicts, the Public Hearing scheduled in Document 3111 has been canceled for April 12, 2007, and rescheduled as follows:

The Public Hearing to be conducted by the Board of Health and Environmental Control for this proposed regulation has been rescheduled for June 14, 2007. The hearing will be held at the regularly scheduled Board meeting on June 14, 2007, in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull St., Columbia, SC. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearing on June 14, 2007, will be noticed in the Board's agenda to be published by the Department 24 hours in advance of the meeting. Interested persons are invited to make oral or written comments on the proposed regulation at the public hearing. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record. Any comments made at the public hearing will be given consideration in formulating the final version of the regulations.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF CANCELLATION AND RESCHEDULING OF PUBLIC HEARING

The Department of Health and Environmental Control issued a Notice of Proposed Regulation to revise regulation R.61-30, Environmental Protection Fees, in the State Register On January 26, 2007, identified as Document 3112. The proposed regulation as published in the State Register would amend Sections G(5) and (6) to increase fees for radioactive material licenses including reciprocity and general licenses specified in R.61-63 and fees for Radioactive Waste Transportation Permits. The Notice scheduled a Staff Informational Forum that was conducted on February 26, 2007, a write-in comment period that closed February 26, 2007, and a Public Hearing scheduled before the DHEC Board on April 12, 2007. No public comments were received at the informational forum or during the write-in public comment period. Due to scheduling conflicts, the Public Hearing scheduled in Document 3112 has been canceled for April 12, 2007 and rescheduled as follows:

The Public Hearing to be conducted by the Board of Health and Environmental Control for this proposed regulation has been rescheduled for June 14, 2007. The hearing will be held at the regularly scheduled Board meeting on June 14, 2007, in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull St., Columbia, SC. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearing on June 14, 2007 will be noticed in the Board's agenda to be published by the Department 24 hours in advance of the meeting. Interested persons are invited to make oral or written comments on the proposed regulation at the public hearing. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record. Any comments made at the public hearing will be given consideration in formulating the final version of the regulations.

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

NOTICE OF CANCELLATION AND RESCHEDULING OF PUBLIC HEARING

The Department of Health and Environmental Control issued a Notice of Proposed Regulation to revise Regulation 61-106, Tanning Facilities, in the State Register On January 26, 2007, identified as Document 3114. The proposed regulation as published in the State Register would reduce the regulatory burden to the tanning industry. The Notice scheduled a Staff Informational Forum that was conducted on February 27, 2007, a write-in comment period that closed February 27, 2007, and a Public Hearing scheduled before the DHEC Board on April 12, 2007. All public comments received at the informational forum and during the write-in public comment period were considered. Due to scheduling conflicts, the Public Hearing scheduled in Document 3114 has been canceled for April 12, 2007, and rescheduled as follows:

The Public Hearing to be conducted by the Board of Health and Environmental Control for this proposed regulation has been rescheduled for June 14, 2007. The hearing will be held at the regularly scheduled Board meeting on June 14, 2007, in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control, 2600 Bull St., Columbia, SC. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The order of presentation for public hearing on June 14, 2007, will be noticed in the Board's agenda to be published by the Department 24 hours in advance of the meeting. Interested persons are invited to make oral or written comments on the proposed regulation at the public hearing. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written copies of their presentations for the record. Any comments made at the public hearing will be given consideration in formulating the final version of the regulations.

**DEPARTMENT OF LABOR, LICENSING AND REGULATION
OFFICE OF STATE FIRE MARSHAL**

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 1-34-30 of the 1976 Code of Laws of South Carolina, as amended, the Department of Labor, Licensing and Regulation, Office of State Fire Marshal intends to adopt the latest edition of the following nationally recognized code.

1. International Fire Code, 2006 Edition
2. The original promulgating authority for this code is:
International Code Council
900 Montclair Road
Birmingham, Alabama 35213-1206
3. This code is referenced by:
South Carolina Code of Laws Section 23-9-60
South Carolina Rules and Regulations 71-8301-3(A)

The Office of State Fire Marshal specifically requests comments concerning sections of these editions which may be unsuitable for enforcement in South Carolina. Written comments may be submitted to John Reich at 141 Monticello Trail, Columbia, SC 29203, by fax at 803-896-9806, or by E-mail to reichj@llr.sc.gov.

If no comments are received within sixty (60) days of publication of this notice, the Office of State Fire Marshal will promulgate this latest edition without amendment.

8 NOTICES

DEPARTMENT OF LABOR, LICENSING AND REGULATION OFFICE OF STATE FIRE MARSHAL

NOTICE OF GENERAL PUBLIC INTEREST

Notice is hereby given that, in accordance with Section 1-34-30 of the 1976 Code of Laws of South Carolina, as amended, the Department of Labor, Licensing and Regulation, Office of State Fire Marshal intends to adopt the latest edition of the following nationally recognized code.

1. International Building Code, 2006 Edition
2. The original promulgating authority for this code is:
International Code Council
900 Montclair Road
Birmingham, Alabama 35213-1206
3. This code is referenced by:
South Carolina Code of Laws Section 23-9-60
South Carolina Rules and Regulations 71-8300.9(A)

The Office of State Fire Marshal specifically requests comments concerning sections of these editions which may be unsuitable for enforcement in South Carolina. Written comments may be submitted to John Reich at 141 Monticello Trail, Columbia, SC 29203, by fax at 803-896-9806, or by E-mail to reichj@llr.sc.gov.

If no comments are received within sixty (60) days of publication of this notice, the Office of State Fire Marshal will promulgate this latest edition without amendment.

COMMISSION ON HIGHER EDUCATION

CHAPTER 62

Statutory Authority: 1976 Code Section 59-58-10 through 59-58-140

Notice of Drafting:

The South Carolina Commission on Higher Education is considering amendments to the regulations concerning nonpublic postsecondary institution licensing. Interested persons should submit their views in writing to Renea H. Eshleman, Coordinator, Nonpublic Postsecondary Institution Licensing, Commission on Higher Education, 1333 Main Street, Suite 200, Columbia, South Carolina 29201. To be considered, all comments must be received no later than June 7, 2007, at 10:00 AM.

Synopsis:

Under the “Nonpublic Postsecondary Institution License Act” (Section 59-58-10 through 140) the General Assembly established a South Carolina Commission on Higher Education administered program for the licensure of certain nonpublic postsecondary institutions operating or soliciting in South Carolina. The South Carolina Commission on Higher Education administers the Act under its Regulations 62-1 through 28.

The proposed change to Regulation 62-6 will require that in-state degree-granting institutions become accredited.

10 PROPOSED REGULATIONS

Document No. 3127
DEPARTMENT OF LABOR, LICENSING AND REGULATION
BOARD OF VETERINARY MEDICAL EXAMINERS
CHAPTER 120
Statutory Authority: 1976 Code Section 40-69-70, et seq.

Preamble:

The Department of Labor, Licensing and Regulation, Board of Veterinary Medical Examiners, proposes to repeal existing regulations and add new Regulations 120-1 through 120-10 in conformance with 2006 Act 294.

Section by Section Discussion

120-1. Definitions.

New section defining veterinarian-client-patient relationship, comprehensive veterinary practice and comprehensive veterinary facility.

120-2. Elections.

New section regarding procedures for annual elections to the Board.

120-3. Standards of Professional Conduct for licensed veterinarians.

New section including ethics, recordkeeping. The Standard specifically allows electronic record keeping using language from the Uniform Electronic Transactions Act codified at S.C. Code 26-6-70.

120.4. Veterinary facilities.

New section setting safety and sanitation standards for various components of veterinary practice.

120-5. Practice Standards for Licensed Veterinary Technicians and other unlicensed veterinary assistants. New section addressing practice standards for veterinary technicians.

120-6. General requirements for licensure to practice veterinary medicine.

New section addressing procedures for licensure for veterinarians.

120-7. General Requirements for licensure to practice veterinary technology. New section addressing procedures for licensure for veterinary technicians.

120-8. Biennial renewal of license. New section addressing procedures for license renewal, including documentation of adequate continuing education.

120-9. Fee waiver during period of temporary medical disability. New section addressing fee waivers for veterinarians on disability.

120-10. Practice of veterinary medicine in animal shelters. New section providing guidance for professional practice in animal shelters.

Notice of Public Hearing and Opportunity for Public Comment:

Should a hearing be requested pursuant to Section 1-23-110(b) of the 1976 Code, as amended, such hearing will be conducted at the Administrative Law Court Division at 10:00 a.m. on Tuesday, June 12, 2007. Written comments may be directed to Donald W. Hayden, Administrator, Department of Labor, Licensing and Regulation, Board of Veterinary Medical Examiners, Department of Labor, Licensing and Regulation, Post Office Box 11329, Columbia, South Carolina 29211-1329, no later than 5:00 p.m., Tuesday, May 29, 2007.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Need and Reasonableness:

DESCRIPTION OF REGULATION:

Purpose: The General Assembly enacted 2006 Act 294 which made significant changes in the underlying statutory authority of the Board. The Board is, therefore, updating its regulations by repealing all existing regulations and adding new Regulations 120-1 through 120-10 in conformance with 2006 Act 294.

Legal Authority: 1976 Code, Section 40-69-70, et seq.

Plan for Implementation: These regulations will take effect upon approval by the General Assembly and upon publication in the State Register. LLR will notify licensees of the regulations and post the regulations on the agency's Web site.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The regulations will establish enhanced communication between licensees and the public.

DETERMINATION OF COSTS AND BENEFITS:

The standardized format of the regulations will assist licensees, consumers and other regulatory entities with locating requirements within the regulations. There will be no cost increases to the State or its political subdivisions.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

There will be no direct effects on the environment or public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

There will be no direct effects on the environment or public health if the regulations are not implemented. The regulations do coordinate with the South Carolina Rabies Control Act and with the laws governing pharmacy practice.

Statement of Rationale:

The purpose of the regulations is to repeal existing regulations and add new Regulations 120-1 through 120-10 in conformance with and to implement the provisions of 2006 Act 294.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

12 PROPOSED REGULATIONS

Document No. 3125

DEPARTMENT OF PUBLIC SAFETY

Chapter 38

Statutory Authority: 1976 Code Section 23-3-30(6)

Article 3, Subarticle 7 Driver Schools and Subarticle 9 Truck Driver Training Schools

Preamble:

The South Carolina Department of Public Safety is proposing to repeal Subarticles 7 & 9 of Article 3 of Chapter 38 of the Department's regulations. These regulations relate to driver training schools and commercial driver training schools. The Department of Motor Vehicles is updating these regulations and will be publishing new regulations under their regulation chapter. A Notice of Drafting for the Proposed Regulations was published in the State Register on February 23, 2007. A discussion of the proposed regulations and statement of need and reasonableness is contained herein.

Section by Section Discussion

Subarticle 7. Contains regulations for companies seeking to operate a Driver Training School.

Subarticle 9 Contains regulations for companies seeking to operate a Truck Driver Training School.

Preliminary Fiscal Impact: The Department anticipates no additional fiscal impact from the repeal of these regulations.

Notice of Public Hearing

The South Carolina Department of Public Safety will conduct a public hearing for the purpose of receiving oral comments, data, views or arguments on June 13, 2007 at 10:00 a.m. if requested in accordance with the provisions of Section 1-23-110 by twenty-five persons, by a governmental sub-division or agency, or by an association having not less than twenty-five members. Requests for a hearing must be in writing and received by the Department of Public Safety by 5:00 p.m. on May 29, 2007. The public hearing will be held at the Administrative Law Court, 1205 Pendleton Street, Brown Building, Second Floor, Columbia, South Carolina 29201. Written comments will be accepted until 5:00 p.m., May 29, 2007. Please submit comments and hearing requests to Ms. Rachel Erwin, South Carolina Department of Public Safety, P.O. Box 1993, Blythewood, S.C. 29016.

Statement of Need and Reasonableness

The statement of need and reasonableness of the regulation was determined based on staff analysis pursuant to S. C. Code Ann. Section 1-23-115 (C) (1)-(3) and (9)-(11). The Department of Motor Vehicles is revising these regulations and republishing them under their new regulation Chapter.

DESCRIPTION OF REGULATION:

Purpose: The Department of Public Safety proposes to repeal these regulations to avoid duplication and confusion. The Department of Motor Vehicles is revising these regulations and will be republishing them under their regulation chapter.

Authority: Section 23-3-30(6).

Plan for Implementing: The Department of Motor Vehicles will be implementing the new revised regulations pursuant to their statutory authority.

Text:

Repeal Subarticle 7 & 9 of Article 3 of Chapter 38.

Document No. 3124
PUBLIC SERVICE COMMISSION
CHAPTER 103

Statutory Authority: S.C. Code Section 58-3-140 (Supp. 2006)

26 S.C. Code Ann. Regs. 103-690, Designation of Eligible Telecommunications Carriers

Preamble:

In Order No. 2006-71, the Commission granted the Office of Regulatory Staff's (ORS) Motion to initiate a rule-making proceeding to determine whether multiple ETCs should be authorized and to develop a single set of eligibility standards for Eligible Telecommunications Carrier (ETC) designation. The Commission held that a rule-making proceeding should be scheduled to examine the requirements and standards to be used by the Commission when evaluating applications for ETC status.

Section-by-Section Discussion

103-690.A This section addresses the purpose of 103-690 – Designation of Eligible Telecommunications Carriers.

103-690.B This section defines the following terms: cell site, commission, eligible telecommunications carrier, Lifeline Service, Link Up Service, ORS, and wire center.

103-690.C This section addresses the substance of applications that are filed with the Commission seeking designation as an eligible telecommunications carrier and addresses the public interest standard.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to the Public Service Commission, Docketing Department, 101 Executive Center Drive, Columbia, South Carolina 29210. Please reference Docket Number 2006-37-C. To be considered, comments must be received no later than 4:45 p.m. on June 1, 2007. Interested members of the public and the regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Public Service Commission on **June 26, 2007, at 10:30 a.m.** in the Commission's Hearing Room, 101 Executive Center Drive, Columbia, South Carolina 29210.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Need and Reasonableness:

This statement of need and reasonableness was determined pursuant to S.C. Code Ann. Section 1-23-115(C)(1) through (3) and (9) through (11).

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DESCRIPTION OF REGULATION: 26 S.C. Code Ann. Regs. 103-690

Purpose: In the Public Service Commission's Order No. 2006-71, the Commission decided that it should ensure that eligible telecommunication carrier designations are consistent with the public interest and preserve the dual goals of preserving universal service and fostering competition. In order to accomplish these goals, the Commission decided that a rule making proceeding should be scheduled to examine the requirements and standards to be used by the Commission when evaluating applications for ETC status.

Legal Authority: S.C. Code Ann. Section 58-3-140 (Supp. 2006)

Plan for Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

By creating a regulation that governs the designation of eligible telecommunications carriers, the Commission will be able to evaluate submitted applications using the same standards. Further, the Commission will be able to evaluate the public interest consistent with an established regulation.

DETERMINATION OF COSTS AND BENEFITS:

Although costs related to creating Regulation 103-690 are minimal, the benefits include the promulgation of a regulation that develops criteria for the designation of eligible telecommunications carriers.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

The regulation will have no detrimental effect on the environment or public health if the regulation is not implemented.

Statement of Rationale:

The purpose of 26 S.C. Code Ann. Regs. 103-690 is to create a regulation which governs the designation of eligible telecommunications carriers utilizing a set standard for review. There was no scientific or technical basis relied upon in the development of this regulation.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.net/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 3126
PUBLIC SERVICE COMMISSION
 CHAPTER 103
 Statutory Authority: S.C. Code Ann. Section 58-3-140 (Supp. 2006)

26 S.C. Code Ann. Regs. 103-100, *et. seq.* and 26 S.C. Code Ann. Regs. 103-200, *et. seq.* Motor Carriers

Preamble:

In 2004, the General Assembly passed Act No. 175 which restructured the Public Service Commission. This Act modified the structure of the Agency and its functions and created the Office of Regulatory Staff. Several duties of the Public Service Commission were transferred to the Office of Regulatory Staff on January 1, 2005. The purpose of the revisions to 26 S.C. Code Ann. Regs. 103-100, *et. seq.* (1976 & Supp. 2006) and 26 S.C. Code Ann. Regs. 103-200, *et. seq.* (1976 & Supp. 2006) of the Public Service Commission's regulations is to amend these regulations to conform to the new standards set out by Act 175 of 2004 and to make other changes consistent with the Public Service Commission's duty to protect the public welfare.

Section-by-Section Discussion

- 103-100 This Section is amended to conform to Act 175 of 2004 and removes an obsolete effective date.
- 103-101 This Section is amended to conform to Act 175 of 2004.
- 103-102 This Section is amended to alphabetize definitions and adds additional definitions to describe terms found in Article 2.
- 103-103 This Section is amended to allow access to regulations via the internet or other electronic means.
- 103-110 This Section is amended to conform to Act 175 of 2004.
- 103-111 This Section is amended to conform to Act 175 of 2004.
- 103-112 This Section is amended to conform to Act 175 of 2004.
- 103-114 This Section is amended to conform to Act 175 of 2004.
- 103-115 This Section is amended to conform to Act 175 of 2004.
- 103-122 This Section is amended to conform to Act 175 of 2004 and to conform to existing regulations.
- 103-130 This Section is amended to conform to Act 175 of 2004.
- 103-132 This Section is amended to conform to Act 175 of 2004.
- 103-133 This Section is amended to conform to Act 175 of 2004; to conform to existing order of the Commission regarding shipper witnesses; to include a reference to federal regulations governing motor carrier safety; to correct an error regarding fire extinguishers; and to add additional qualifications/requirements for owners, drivers, and vehicles for holders of Class C – Taxi and Class C-Charter certificates.
- 103-134 This Section is amended to conform to Act 175 of 2004.
- 103-135 This Section is amended to conform to Act 175 of 2004 and to provide clarification regarding dividing rights.
- 103-136 This Section is amended to conform to Act 175 of 2004.
- 103-138 This Section is amended to conform to Act 175 of 2004.
- 103-139 This Section is amended to conform to Act 175 of 2004.
- 103-150 This Section is amended to conform to Act 175 of 2004; to recognize the use of self-insurance as per South Carolina law; and to add regulations governing vehicle appearance, serviceability, and operation of Class C- Taxi and Class C-Charter certificate holders.
- 103-151 This Section is amended to conform to Act 175 of 2004 and to replace the phrase “power units” with the phrase “motor vehicles.”
- 103-152 This Section is amended to conform to Act 175 of 2004 and to replace the phrase “power units” with the phrase “motor vehicles.”

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- 103-153 This Section is amended to conform to Act 175 of 2004.
- 103-154 This Section is amended to conform to Act 175 of 2004.
- 103-155 This Section is amended to conform to Act 175 of 2004.
- 103-156 This Section is amended to conform to Act 175 of 2004.
- 103-158 This Section is amended to recognize combination bill of lading and freight or expense bill or invoice and to conform to Act 175 of 2004.
- 103-159 This Section is amended to add the use of a certified public scale for weight and to omit item number thirteen which required a permit number.
- 103-160 This Section is being deleted due to duplication.
- 103-162 This Section is amended to conform to Act 175 of 2004 and to delete language that refers to a repealed regulation.
- 103-164 This Section is amended to conform to Act 175 of 2004.
- 103-170 This Section is amended to conform to Act 175 of 2004 and to recognize self-insurance as allowed by South Carolina law.
- 103-171 This Section is amended to recognize self-insurance as allowed by South Carolina law and is modified to include reference to forms used in motor vehicle regulation.
- 103-172 This Section is amended to recognize increase in mandatory property damage limits.
- 103-173 This Section is amended to conform to Act 175 of 2004 and to include reference to forms used in motor vehicle regulation and to describe the mode of transmittal of certain documents to the Office of Regulatory Staff.
- 103-174 This Section is amended to include reference to forms used in motor vehicle regulation.
- 103-175 This Section is amended to conform to Act 175 of 2004, to recognize self-insurance as allowed by South Carolina law, and to allow for suspension of certificate upon the filing of a letter and supporting evidence by the ORS.
- 103-176 This Section is amended to conform to Act 175 of 2004 and to include reference to forms used in motor vehicle regulation.
- 103-177 This Section is amended to recognize self-insurance as allowed by South Carolina law.
- 103-178 This Section is amended to conform to Act 175 of 2004 and to recognize self-insurance as allowed by South Carolina law.
- 103-180 This Section is amended to conform to Act 175 of 2004.
- 103-190 This Section is amended to conform to Act 175 of 2004.
- 103-191 This Section is amended to conform to Act 175 of 2004 and to allow for a hearing on rates, if necessary.
- 103-193 This Section is amended to conform to Act 175 of 2004.
- 103-195 This Section is amended to include language which clarifies the applicability of the regulation.
- 103-196 This Section is amended to conform to Act 175 of 2004.
- 103-197 This Section is amended to conform to Act 175 of 2004.
- 103-198 This Section is amended to conform to Act 175 of 2004.
- 103-199 This Section is amended to conform to Act 175 of 2004 and to allow for moves without charge to valid 501(c)(3) organizations.
- 103-210 This Section is amended to conform to Act 175 of 2004.
- 103-220 This Section is amended to conform to Act 175 of 2004.
- 103-221 This Section is amended to conform to Act 175 of 2004.
- 103-225 This Section is amended to conform to Act 175 of 2004.
- 103-231 This Section is amended to conform to Act 175 of 2004 and to modify the annual report due date.
- 103-232 This Section is amended to conform to Act 175 of 2004.
- 103-233 This Section is amended to conform to Act 175 of 2004 to add independent contractors to the scope of the regulation.
- 103-240 This Section is amended to conform to Act 175 of 2004.
- 103-241 This Section is amended to conform to Act 175 of 2004.
- 103-280 This Section is being deleted as these forms are located in 23A S.C. Code Ann. Regs. 38-447.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to the Public Service Commission, Docketing Department, 101 Executive Center Drive, Columbia, South Carolina 29210. Please reference Docket Number 2007-18-T. To be considered, comments must be received no later than 4:45 p.m. on June 1, 2007. Interested members of the public and the regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Public Service Commission on **June 21, 2007, at 10:30 a.m.** in the Commission's Hearing Room, 101 Executive Center Drive, Columbia, South Carolina 29210.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Need and Reasonableness:

This statement of need and reasonableness was determined pursuant to S.C. Code Ann. Section 1-23-115(C)(1) through (3) and (9) through (11).

DESCRIPTION OF REGULATION: 26 S.C. Code Ann. Regs. 103-100, *et. seq.* and 26 S.C. Code Ann. Regs. 103-200, *et. seq.*

Purpose: 2004 S.C. Acts 175 modified the structure of the Public Service Commission and its functions and created the Office of Regulatory Staff. Several duties of the Commission Staff were transferred to the Office of Regulatory Staff on January 1, 2005. The purpose of the revisions to 26 S.C. Code Ann. Regs. 103-100, *et. seq.* and 26 S.C. Code Ann. Regs. 103-200, *et. seq.* is to revise the Commission's motor carrier regulations to conform to Act No. 175 of 2004 and to make other changes consistent with the Public Service Commission's duty to protect the public welfare.

Legal Authority: S.C. Code Ann. Section 58-3-140 (Supp. 2006)

Plan for Implementation: The proposed amendments will take effect upon approval by the General Assembly and publication in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

Due to the major restructuring of the Public Service Commission and its governing statutes, the Commission's regulations should be consistent with the recent revisions in Title 58 of the South Carolina Code. The proposed changes are intended to conform the Commission's regulations governing motor carriers to the current law in the South Carolina Code.

DETERMINATION OF COSTS AND BENEFITS:

Although costs related to amending 26 S.C. Code Ann. Regs. 103-100, *et. seq.* and 26 S.C. Code Ann. Regs. 103-200, *et. seq.* are minimal, the benefits include regulations that conform with Title 58 of the South Carolina Code.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

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The amended regulations will have no detrimental effect on the environment and public health if the regulations are not implemented.

Statement of Rationale:

The purpose of the revisions to 26 S.C. Code Ann. Regs. 103-100, *et. seq.* and 26 S.C. Code Ann. Regs. 103-200, *et. seq.* is to conform the Public Service Commission's motor carrier regulations with Act No. 175 of 2004. There was no scientific or technical basis relied upon in the development of these regulations.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: **<http://www.scstatehouse.net/regnsrch.htm>**. Full text may also be obtained from the promulgating agency.

Resubmitted: February 2, 2007

Document No. 3061
DEPARTMENT OF INSURANCE
CHAPTER 69

Statutory Authority: 1976 Code Section 38-91-10 *et seq.*

69-62. Termination of the SCAAIP Joint Underwriting Association and its wind up period

Synopsis:

Section 38-91-10 provides that the Director of Insurance may promulgate regulations which may be necessary to implement the transition from the South Carolina Associated Auto Insurers Plan (SCAAIP) to the assigned risk plan including the termination of the joint underwriting association and its wind-up period. Accordingly, the Department proposes this regulation to provide for the orderly termination and wind-up of the affairs of the SCAAIP. This regulation proposes the termination of the SCAAIP effective with the financial quarter ending June 30, 2007.

A Notice of Drafting for the proposed regulation was published in the State Register on December 30, 2005. No comments were received concerning the proposed regulation.

Instructions: Add new R. 69-62, Closeout and Termination of the SCAAIP, to Chapter 69 regulations.

Text:

R. 69-62. Closeout and Termination of the SCAAIP.

Table of Contents.

- 69-62.1 Purpose and Applicability
- 69-62.2 Definitions.
- 69-62.3 Procedures for Closeout and Termination of the SCAAIP

69.62.1. Purpose and Applicability

This regulation applies to automobile property and casualty insurance business transacted by the South Carolina Associated Auto Insurers Plan (SCAAIP). The purpose of this regulation is to provide for the termination and orderly transition of business from the SCAAIP to the AAIP of SC.

69.62.2. Definitions

A. *Accounting and Statistical Requirements Manual* means the South Carolina Associated Insurers Plan (SCAAIP) Accounting and Statistical Requirements Manual.

B. *Member Company* means every insurer authorized to write and engaged in writing automobile insurance in the State of South Carolina that was a participant in the South Carolina Associated Auto Insurers Plan (SCAAIP).

C. *South Carolina Associated Auto Insurers Plan or SCAAIP* means the joint underwriting association, established pursuant to South Carolina Act No. 154 of 1997, which was in effect from March 1, 1999 to February 28, 2003.

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69.62.3. Closeout and Termination of the SCAAIP

A. Purpose

The purpose of this regulation is to provide for the termination and orderly transfer of the business affairs and liabilities of the South Carolina Associated Auto Insurers Plan (SCAAIP) to the Associated Auto Insurers Plan of South Carolina.

B. Powers of the Advisory Board of the AAIP

Subject to the approval of the director or her designee, the Advisory Board of the AAIP shall develop policies and procedures for the orderly termination and wind-up of the affairs of the SCAAIP. The Advisory Board, on behalf of its members, is authorized to:

- 1) settle claims on policies issued by the SCAAIP.
- 2) establish procedures for the sharing among members of profit or loss on SCAAIP business and other costs, charges, expenses, liabilities, income, property and other assets of the SCAAIP. The assessments of members for their appropriate shares may be based on the member's premium volume or exposure units for business other than SCAAIP business or on a combination of such bases or on any other equitable basis.
- 3) reinsure SCAAIP business.
- 4) join, advise, assist, associate, cooperate and contract with its members and with such organizations, associations, insurers, governmental agencies, and others as may be necessary or proper to accomplish the transition of liabilities from the SCAAIP to the AAIP.
- 5) sue and be sued.
- 6) take any other action not specifically enumerated above or related thereto which is otherwise necessary or proper to accomplish the termination of the SCAAIP and the orderly transition and windup of its affairs.

C. Termination of the SCAAIP

Effective June 30, 2007, the SCAAIP shall terminate as a legal entity in South Carolina. Liability for any policy issued by the SCAAIP will be transferred to the AAIP of SC. The State of South Carolina shall have no liability or responsibility for any policy issued by the SCAAIP or AAIP of SC

D. Future SCAAIP Liabilities

Any future SCAAIP liability referenced above and a dollar amount equal to the case base reserves and IBNR shall be transferred to the AAIP of SC to be held in a termination fund. The AAIP will assume responsibility for the future settlement of any SCAAIP liability by utilization of these funds ("termination fund"). Should any future SCAAIP liability exceed the dollar amount available in the termination fund, the AAIP of SC may assess the AAIP membership in an amount to cover that liability and any future projected liability. This assessment will be handled in accordance with the procedure outlined in the AAIP of SC Plan of Operation and will be subject to the prior approval of Department of Insurance.

Any outstanding SCAAIP cash balance (prior membership assessments paid to cover SCAAIP underwriting results and its administrative expense) in excess of the termination fund will be reimbursed to the SCAAIP membership within 60 days of the issuance of the quarter ending June 30, 2007 SCAAIP Members Participation reports.

E. By February 28, 2014, the Advisory Board of the AAIP of SC will evaluate the outstanding liabilities of SCAAIP and determine how any remaining termination fund monies should be handled. The Advisory Board shall make a recommendation to the Director for approval. Should the Termination Fund remain in existence after 2014, the Advisory Board will evaluate the potential SCAAIP liability annually after that date until such

time as the excess termination fund monies are fully distributed. The Advisory Board of the AAIP shall submit a filing requesting dissolution of the termination fund and the distribution of monies to the SCAAIP member companies to the Director of Insurance for prior approval once all liabilities of the SCAAIP have been settled.

Fiscal Impact Statement:

Staff anticipates no additional financial impact upon state government. Additional costs to the Department are also not anticipated. By transitioning the liabilities of the SCAAIP to the AAIP of South Carolina, the cost of administering the SCAAIP will be saved. Historically, it has cost approximately \$200,000 per year to administer the SCAAIP.

Statement of Rationale:

The Department relied upon the professional judgment of Department and SCAAIP staff for the basis in developing this regulation.

Document No. 3042
PUBLIC SERVICE COMMISSION
 CHAPTER 103
 Statutory Authority: 1976 Code Section 58-3-140

26 S.C. Code Ann. Regs. 103-800, *et. seq.* Practice and Procedure

Synopsis:

In 2004, the General Assembly passed Act No. 175 which restructured the Public Service Commission. This Act modified the structure of the Agency and its functions and created the Office of Regulatory Staff. Several duties of the Public Service Commission were transferred to the Office of Regulatory Staff on January 1, 2005. The purpose of the revisions to 26 S.C. Code Ann. Regs. 103-800, *et. seq.* (1976 & Supp. 2005) of the Public Service Commission's regulations is to amend Article 8 to conform to the new standards set out by Act 175 of 2004.

Instructions:

Print regulations in accordance with directions given below to show most current date of revised regulations.

- 103-800 as amended and published below.
- 103-801 as amended and published below.
- 103-802 - Leave as currently printed.
- 103-803 as amended and published below.
- 103-804 as amended and published below.
- 103-805 - Delete Regulation in its entirety.
- 103-810(C) as amended and published below and leave remaining sections as they currently exist.
- 103-811 as amended and published below.
- 103-812 - Leave as it is currently printed.
- 103-813 as amended and published below.
- 103-814 - Delete the current provisions and publish as printed below.
- 103-815 - Delete as it currently exists and publish as printed below.
- 103-816 - Delete as it currently exists and publish as printed below.
- 103-817 - Delete as it currently exists and publish as printed below.
- 103-818 - Delete as it currently exists and publish as printed below.

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103-819 as published below.
103-820 - Delete as it currently exists and publish as printed below.
103-821 - Delete as it currently exists and publish as printed below.
103-822 - Delete as it currently exists and publish as printed below.
103-823 as published below.
103-824 as published below.
103-825 as published below.
103-826 as published below.
103-827 as published below.
103-828 as published below.
103-829 as published below.
103-830 - Delete as it currently exists and publish as printed below.
103-831 - Delete as it currently exists and publish as printed below.
103-832 - Delete as it currently exists and publish as printed below.
103-833 - Delete as it currently exists and publish as printed below.
103-834 - Delete as it currently exists and publish as printed below.
103-835 - Delete as it currently exists and publish as printed below.
103-836 - Delete as it currently exists and publish as printed below.
103-837 - Delete as it currently exists and publish as printed below.
103-838 - Delete as it currently exists and publish as printed below.
103-839 - Delete as it currently exists and publish as printed below.
103-840 - Delete as it currently exists and publish as printed below.
103-841 - Delete as it currently exists and publish as printed below.
103-842 - Delete as it currently exists and publish as printed below.
103-843 as published below.
103-844 as published below.
103-845 as published below.
103-846 as published below.
103-847 as published below.
103-848 as published below.
103-849 as published below.
103-850 - Delete as it currently exists and publish as printed below.
103-851 - Delete as it currently exists and publish as printed below.
103-852 - Delete as it currently exists and publish as printed below.
103-853 - Delete as it currently exists and publish as printed below.
103-854 - Delete as it currently exists and publish as printed below.
103-855 as published below.
103-856 as published below.
103-857 as published below.
103-858 as published below.
103-859 as published below.
103-860 through 103-886 - Delete as they currently exist.

Text:

103-800. Authorization.

A. In accordance with provisions of law, the Public Service Commission has adopted the following rules and regulations and fixed the following standards to govern the practice and procedures of parties before it. All previous rules or standards of practice and procedure are hereby revoked, annulled and superseded.

B. The adoption of these rules shall in no way preclude the Public Service Commission from altering, amending or revoking them in whole or in part, or from making additions thereto, pursuant to provisions of law, upon petition of a proper party or upon its own motion.

C. The adoption of these rules of practice and procedure shall not relieve either the Commission or any party participating in proceedings before it of any duties prescribed under the laws of this State.

103-801. Application of Rules.

These rules shall apply to any person who participates in proceedings before the Public Service Commission.

103-802. Purpose of Rules

103-803. Waiver of Rules.

In any case where compliance with any of these rules and regulations produces unusual hardship or difficulty, or where circumstances indicate that a waiver of one or more rules or regulations is otherwise appropriate, such rule or regulation may be waived by the Commission upon a finding by the Commission that such waiver is not contrary to the public interest.

103-804. Definitions.

The following words and terms, when used in the context of these rules and regulations, shall have the meanings indicated.

A. Applicant. A party on whose behalf an application is made to the Commission for any permission or authorization which the Commission may grant pursuant to statutory or other proper authority.

B. Commission and Commissioner. The South Carolina Public Service Commission and a Commissioner thereof, respectively.

C. Complainant. A party who complains to the Commission of anything done, or omitted to be done, in contravention or violation of the provisions of any statute or other delegated authority administered by the Commission, or of any order, rule or regulation issued or promulgated thereunder, or any other alleged wrong within the jurisdiction of the Commission.

D. Defendant. A party subject to statute or other delegated authority administered by the Commission, or any order, rule or regulation issued or promulgated thereunder, against whom any complaint is filed.

E. Formal Record. The documentation pertaining to a proceeding before the Commission, including the following: the designation of the presiding officer; proofs of publication and notification; all pleadings and intermediate rulings; the transcript or official recording of hearing which shall include all evidence received or considered; a statement of matters officially noticed; all questions and offers of proof, objections and rulings thereof; proposed findings and exceptions, if any; any decision, opinion or report by the presiding officer; all memoranda or data submitted to the hearing officer or members of the Commission in consideration of a proceeding; and the order making final disposition of the matter.

F. Hearing Examiner. A member of the Commission staff, duly appointed and designated by the Commission to serve as a presiding officer for a proceeding before the Commission, and so serving as a presiding officer.

G. Hearing Officer. An attorney qualified to practice in all courts of this State with a minimum of eight years' practice experience employed by the Commission to hear and determine procedural motions or other matters not determinative of the merits of the proceedings and made prior to the hearing. At the hearing, a hearing

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officer shall make all rulings on nondispositive motions and objections. The hearing officer has full authority, subject to being overruled by the Commission, to rule on questions concerning the conduct of the case and the admission of evidence but may not participate in the determination on the merits of the case. If qualified, a Commission staff attorney may serve as a hearing officer.

H. Intervenor. A person who files a petition to intervene in a proceeding before the Commission, as provided by R. 103-825, and after such petition is approved by the Commission or presiding officer. Admission as an intervenor shall not be construed as recognition by the Commission that such intervenor might be aggrieved by any order of the Commission in such proceeding.

I. Notice of Filing.

(1) A statement prepared by the Chief Clerk upon the filing of a pleading which initiates a proceeding, and which is provided to the party submitting the pleading. The Notice of Filing shall be published pursuant to R. 103-817(C) and shall otherwise be processed according to the Commission's Rules and Regulations concerning specific persons within the Commission's jurisdiction.

(2) The Notice of Filing shall contain a brief description of the pleading, reference to the statutory or other legal authority under which the pleading was filed, and the manner in which interested persons may file petitions to intervene or protests, and the return date.

J. Notice of Hearing.

(1) A statement prepared by the Chief Clerk which provides certain information relative to the public hearing scheduled in a proceeding before the Commission, and submitted to all parties in that proceeding. The Notice of Hearing shall be published, pursuant to applicable provisions of law.

(2) A Notice of Hearing shall include the following items of information:

(a) A statement of the date, time, and place of the public hearing;

(b) A reference to the legal authority under which the proceeding was instituted;

(c) A description of the subject and issues involved, and, in a rulemaking proceeding, the terms or substance of the proposed rule.

(3) At its discretion, the Commission may consolidate a Notice of Hearing with a Notice of Filing, and issue a Notice of Filing and Hearing, if the public interest so requires.

K. Order. A written decision or opinion issued by the Commission representing the whole or any part of the disposition (whether affirmative, negative, injunctive or declaratory in form) of a proceeding before the Commission.

L. Party or Party of Record. A party in a proceeding before the Commission who is entitled to receive all documentary materials, pleadings, orders or other dispositions of matters relevant to the proceeding. Parties of record will include applicants, complainants, defendants, respondents, and intervenors. Parties of record may file a petition for rehearing of Commission orders, pursuant to R. 103-854. The Office of Regulatory Staff shall be considered a party of record for the purposes of filing and receipt of pleadings and documentary materials, data requests, and for the conduct of proceedings.

M. Person. Any individual, partnership, corporation, association, establishment, limited liability companies, limited partnership, entities, governmental subdivision, or public or private organization of any character.

N. Petitioner. A party seeking relief from the Commission, and not otherwise designated herein.

O. Pleading. A document seeking relief in a proceeding before the Commission, including complaint, answer, application, protest, request, motion (other than an oral motion made during a proceeding) or petition.

P. Presiding Officer. A Commissioner or a hearing examiner appointed and duly designated by the Commission, who presides at proceedings before the Commission.

Q. Proceeding. The general process of the Commission's determination of the relevant facts and the applicable law, the consideration thereof and the action thereupon in regard to a particular subject matter within the Commission's jurisdiction, initiated by the filing of an appropriate pleading or issuance of a Commission order or rule to show cause.

R. Protestant. An individual objecting on the ground of private or public interest to the approval of an application, petition, motion or other matter which the Commission may have under consideration. A protestant may offer sworn testimony without the privilege of cross-examination of witnesses offered by other parties. A protestant desiring to become an intervenor in a proceeding before the Commission may file a petition for intervention.

S. Public Records.

(1) Those official items of information within the files of the Commission which are available for inspection by the public. Public records include:

(a) Applications, complaints, petitions and other papers seeking Commission action;

(b) Financial, statistical and other reports to the Commission; rates and rate schedules; any other filings and submittals to the Commission in compliance with the requirement of any statute, Commission order, rule or regulation;

(c) All pleadings, notices, depositions and formal records in proceedings before the Commission;

(d) Any proposed testimony or exhibit filed with the Commission but not yet offered or received in evidence;

(e) All Commission orders, notices, findings, opinions, determinations, and other actions in proceedings and all Commission minutes which have been approved and filed with the Chief Clerk;

(f) All Commission correspondence relating to any furnishing of data or information;

(g) Commission correspondence relating to the interpretation or applicability of any statute, rule, regulation or order issued or administered by the Commission and letters of opinion on those subjects signed by Staff Counsel and sent to others than the Commission, a Commissioner, or any of the Commission's staff;

(h) Copies of all filings, certifications, pleadings, records, briefs, orders, judgments, decrees and mandates in court proceedings in which the Commission is a party and all correspondence with the Courts or clerks of court.

(2) The term Public Records does not include any information specifically exempted by statute or Commission order.

(3) Public Records are available for public inspection at the offices of the Commission, during the Commission's business hours. Copies of public records may be made available by the Chief Clerk for a reasonable charge.

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T. Representation.

(1) The act of serving as counsel for a party, or of serving as the authorized representative of a party, in a proceeding before the Commission. Representation of a party of record in a proceeding shall include the right to offer evidence on behalf of the party represented and to cross-examine witnesses offered by other parties. Those persons who may act in a representative capacity are the following:

(a) An individual may represent himself or herself in any proceeding before the Commission.

(b) An attorney authorized to practice law in the State of South Carolina may represent a party in any proceeding before the Commission. An attorney not authorized to practice before the courts of the State of South Carolina but authorized to practice before the courts of any other State may represent a party in any formal proceeding before the Commission upon association with an attorney admitted to practice before the courts of South Carolina.

(2) All persons acting in a representative capacity before the Commission shall be subject to any limitation imposed by statute or other proper authority.

U. Respondent. A party subject to any statute or other delegated authority administered by the Commission to whom an order, notice or rule to show cause is issued by the Commission instituting an investigation or a proceeding.

V. Rule. The whole or any part of a Commission statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure or practice requirements of the Commission.

W. Rulemaking. The Commission process for the formulation, amendment or repeal of a rule.

X. Rule to Show Cause. An order issued by the Commission instituting a proceeding against a person under the Commission's statutory authority. Such rule shall set forth the grounds for such action, and will contain a statement of the particulars and matters concerning which the Commission seeks to inquire and which shall be deemed to be tentative and for the purpose of framing issues for consideration and decision of the Commission in the proceeding. Such rule shall require that the respondent named respond in writing, as the Commission may direct.

Y. Staff Counsel. Legal Counsel of the Commission and Commission Staff.

103-805. Appearance Bond

103-810. Functions of the Commission.

C. Except as otherwise provided by law, regulation and supervision of rates and charges, services, facilities, practices and accounting procedures for all privately and publicly-owned telephone and telegraph companies within the State. S.C. Code Ann. Section 58-9-10 et. seq., (1976), as amended; R. 103-600 et. seq.

103-811. Commissioners.

The membership of the Commission is composed of seven Commissioners, each elected for a term of four years by the South Carolina General Assembly upon nomination of the State Regulation of Public Utilities Review Committee, one from each of six Commission Districts and one at-large, pursuant to S.C. Code Ann. Section 58-3-20.

Beginning in 2004, the members of the Public Service Commission must be elected to staggered terms. In 2004, the members representing the second, fourth, and sixth congressional districts must be elected for terms ending on June 30, 2006, and until their successors are elected and qualify. In 2004, the members representing the first, third, and fifth congressional districts and the State-at-large must be elected for terms ending on June 30, 2008, and until their successors are elected and qualify. Thereafter, members representing the first, third, and fifth congressional districts and the State-at-large must be elected to terms of four years and until their successors are elected and qualify. Thereafter, members representing the second, fourth, and sixth congressional districts must be elected to terms of four years and until their successors are elected and qualify.

103-812. Chairman and Vice-Chairman

103-813. The Commission Staff.

The Commission is authorized and empowered to employ a chief clerk and deputy clerk; a commission attorney and assistant commission attorneys; hearing officers; hearing reporters; and such other professional, administrative, technical, and clerical personnel as the commission determines to be necessary in the proper discharge of the commission's duties and responsibilities as provided by law.

103-814. Commission Meetings.

Formal meetings of the Commission are held on a weekly basis, or at the call of the chairman or at the call of a majority of the Commission, for the purposes of formulating decisions, composing orders, planning and coordinating the work of the Commission, and conferring with the Commission staff. The Chief Clerk shall be responsible for the arrangement of the agenda of matters to be considered at Commission meetings. All Commission meetings and executive sessions are conducted in accordance with the terms of S.C. Code Ann., Section 30-4-10 et. seq.

103-815. Office Hours.

The offices of the Commission will be open for business daily during the hours between 8:15 A. M. and 4:45 P. M., Monday through Friday, subject to the observance of State holidays.

103-816. Written Correspondence.

All written communications should be directed to the following address:

The Public Service Commission of South Carolina

Post Office Drawer 11649

Columbia, South Carolina 29211

Or hand-delivered to the Commission's street address:

Synergy Business Park

101 Executive Center Drive

Columbia, South Carolina 29210-8411

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103-817. Proceedings.

A. Nature of Proceedings. If required by law and upon filing of a pleading as set forth in R. 103-819, et. seq., proceedings for the purpose of rulemaking, ratemaking, licensing, determining rights, duties, or privileges of any party, and undertaking an official inquiry for the purposes of gathering information or making determinations, which fall under the jurisdiction of the Commission, shall be conducted by one or more Commissioners, or by a hearing examiner through the development of a formal record.

B. Initiation of Proceedings.

(1) All proceedings shall be initiated by filing with the Chief Clerk at his business offices at the Commission an original and copies, as determined by the Commission, of an appropriate pleading unless otherwise provided, as designated in R. 103-819, et seq.

(2) The Chief Clerk may refuse to accept for filing any pleading which does not conform to the rules of the Commission, and shall mail written notice to the party or his authorized representative within ten days after receipt, stating why it has not been accepted for filing.

C. Conduct of Proceedings.

(1) All pleadings initiating proceedings shall be dated upon receipt and shall be assigned a docket number after filing, and all subsequent pleadings or correspondence shall refer to that docket number. Pleadings will be captioned in accordance with R. 103-819, et seq., and shall be processed pursuant to these rules.

(2) The Chief Clerk after filing of the pleadings shall give the Commission notice of such filing at the next regular meeting of the Commission. Where provided by law, any proceeding initiated under these rules may be disposed of without hearing by Order of the Commission within 14 days after the pleading has been accepted for filing, upon the written opinion of the Commission that the pleading on its face shows that a hearing is not necessary, in the public interest, or for the protection of substantial rights.

(3) After any pleading has been accepted for filing, the Chief Clerk may:

(a) Serve the pleadings, as required, in accordance with R.103-830, or within fourteen (14) days, provide the party filing the pleading a Notice of Filing, and, where required by law, the party at its own expense shall publish such notice one time in newspapers having general circulation in the State, or, if applicable, in newspapers having general circulation in the party's service area. Except for good cause shown, proof of publication must be filed on or before the return date. The Chief Clerk, pursuant to other rules of the Commission, may require that the Notice of Filing be mailed to customers and other persons and a certificate of mailing be filed on or before the return date.

(b) Fix a date for hearing, as soon as practicable, and when a date is available on the docket calendar. If the hearing date has not been included in the Notice of Filing, the Chief Clerk shall prepare a Notice of Hearing, and shall forward by certified mail such Notice of Hearing to all parties. Proof of mailing must be placed in the formal record.

(c) Assign a time and place for any public hearing necessary in the conduct of any proceeding. The Chief Clerk shall likewise cause the pleadings to be served pursuant to these rules or issue written notice of the filing of pleadings which shall be published pursuant to law, and notice of the hearing date assigned for the conduct of any formal proceeding, as provided by law.

(d) Require from a person filing a pleading a letter incorporating a statement presenting the number of witnesses the person expects to offer in the proceeding and an estimate of the time required for the presentation of testimony and exhibits.

(4) Public hearings in the conduct of proceedings shall be held pursuant to R. 103-836, et seq.

D. Final Disposition of Proceedings. Proceedings shall be concluded upon the issuance of an order by the Commission or upon a settlement or agreement reached by all parties to the proceedings and formally acknowledged by the Commission by issuance of an order.

103-818. Rulemaking proceedings.

A. Nature of Rulemaking Proceedings. When permitted by law, and upon the filing of a pleading, proceedings for the purpose of rulemaking shall be conducted by one or more Commissioners or by a hearing examiner through the development of a formal record.

B. Initiation of Rulemaking Proceedings. Rulemaking proceedings shall be initiated by the process identified in R. 103-817B.

C. Conduct of Rulemaking Proceedings.

(1) Pleadings filed with the Commission initiating rulemaking proceedings shall be processed as in proceedings, pursuant to R. 103-817C(1) and (2).

(2) General notice of proposed rulemaking proceedings shall be made in accordance with applicable provisions of law.

(3) The Commission shall provide an opportunity to interested parties for participation in the rulemaking proceeding through submission of written data, views or arguments with or without opportunity for oral presentation.

D. Final Disposition of Rulemaking Proceedings. Rulemaking proceedings shall be concluded upon the issuance of an order by the Commission issuing, amending, or repealing a rule or rules, and containing a concise general statement of the basis and purpose of such rule or rules. Publication of such rule or rules shall be made in accordance with applicable provisions of law.

103-819. General Contents of Pleadings.

All pleadings in proceedings before the Commission to which docket numbers have been assigned shall prominently display such docket numbers. All pleadings shall also include the following information:

A. The legal name and address of each person by whom such pleading is filed;

B. The full name and address of the authorized representative of the person filing the pleading;

C. A concise and cogent statement of the facts such person is prepared to present to the Commission;

D. A statement identifying the specific relief sought by the person filing the pleading.

103-820. General Form of Pleadings.

All pleadings filed in proceedings before the Commission should be typewritten on paper cut or folded to letter size (8 to 8 1/2 inches wide by 10 1/2 to 11 inches long) with a left-hand margin not less than 1 1/2 inches wide and other margins not less than 1 inch wide. The impression shall be on one side of the paper only.

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103-821. Copies of Pleadings.

Pleadings shall be filed in one original and copies, as determined by the Commission, unless otherwise specified by the Chief Clerk. In addition, where practicable, an electronic copy of the pleadings shall be served on the Chief Clerk and all parties according to such procedures as may be directed by the Commission. Mimeographed or photocopied copies will be accepted as typewritten, provided all copies are clearly legible.

103-822. Signature and Verification.

All pleadings filed with the Commission shall be signed. The signature of the person, or its authorized representative, submitting the pleading, shall constitute an admission that such person or representative has read the pleading and knows the contents thereof, and, if the signatory is acting in a representative capacity, that such signatory has the capacity and authority specified therein. A verification under oath shall be required if facts are alleged to be true within the knowledge of the person filing the pleading.

103-823. Applications.

Applications are submitted to the Commission for any authorization or permission which the Commission is empowered to grant under its statutory authority, including applications for establishment or adjustment of rates and charges.

A. Content of Applications. Applications shall state clearly and concisely the authorization or permission sought, and shall refer to the specific statutory provision or other authority under which Commission authorization or permission is sought. Applications shall further set forth the following information:

(1) The precise legal name of the applicant, which shall indicate whether the applicant is a partnership, corporation, association, establishment, governmental subdivision, or other public or private organization.

(2) The name, title, address, e-mail address, and telephone number of the person to whom correspondence or communications relative to the application is to be addressed.

(3) The following data, in general rate establishment or adjustment applications, attached as exhibits and developed for a historic twelve-month test period unless otherwise directed:

(a) Balance sheet;

(b) Profit and loss statement;

(c) Accounting and pro forma adjustments;

(d) Computation of proposed increase or decrease;

(e) Effect of proposed increase or decrease to include copies of present and proposed tariffs;

(f) Statement of fixed assets and depreciation reserve;

(g) Rates of return on rate base and on common equity.

(4) All other information required by statute or by the Commission's Rules and Regulations under which a specific type of application is filed, or as may be required by the Commission in a particular proceeding.

B. Form of Applications. Except where otherwise prescribed by the Rules and Regulations of the Commission under which a specific type of application is filed, applications shall conform to the requirements of R. 103-819 through R. 103-822.

103-824. Complaints.

Any person complaining of anything done or omitted to be done by any person under the statutory jurisdiction of the Commission in contravention of any statute, rule, regulation or order administered or issued by the Commission, may file a written complaint with the Commission, requesting a proceeding.

A. Contents of Complaints. A written complaint filed with the Commission shall contain the following information:

- (1) The name, address, e-mail address, and telephone number of the person making the complaint and of his authorized representative, if he is represented.
- (2) The name and address of the person about whom the complaint is made.
- (3) A concise and cogent statement of the factual situation surrounding the complaint. If a complaint relates to an act, rule, regulation or order administered or issued by the Commission, or to a provision in a tariff or contract on file with the Commission, the act, rule, regulation, order, tariff or contract should be specifically identified in the complaint.
- (4) A concise statement of the nature of the relief sought.

B. Form of Complaints. A complaint filed pursuant to this section shall conform to the requirements of R. 103-819 through R. 103-822.

C. Joinder of Complaints. Two or more grounds of complaint concerning the same subject or set of facts may be included in one complaint, but should be separately stated and numbered. Two or more complainants may join in one complaint if their respective causes of complaint are against the same defendant or defendants, and if they involve substantially the same purpose, subject or set of facts.

103-825. Petitions.

Petitions may be submitted to the Commission for any relief, other than for an adjustment of rates and charges, which the Commission is empowered to grant under its statutory authority. Petitions which may be filed include: Petition for Rulemaking, Petition for a Declaratory Order, Petition to Intervene, Petition for Rehearing or Reconsideration, and Petition for a Rule to Show Cause.

A. Content of Petitions. Petitions shall state clearly and concisely the petitioner's grounds of interest in the subject matter, the facts relied upon, and the relief sought. Petitions shall cite by appropriate reference the statutory provision or other authority relied upon for relief. The following requirements are applicable to specific types of Petitions:

- (1) A Petition for Rulemaking shall set forth clearly and concisely:
 - (a) The petitioner's interest in the subject matter;
 - (b) The specific rule, amendment, waiver or repeal requested;
 - (c) The statutory provision or other authority therefore;

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(d) The purpose of, and the grounds requiring, the proposed rulemaking.

(2) A Petition for Declaratory Order to determine applicability of any statute or of any rule or order of the Commission shall state clearly and concisely:

- (a) A full disclosure of the petitioner's interest;
- (b) The uncertainty which is the subject of the petition;
- (c) The statutory provision or other authority involved;
- (d) A complete statement of the facts prompting the petition.

(3) A Petition to Intervene in a proceeding before the Commission shall set forth clearly and concisely:

- (a) The facts from which the nature of the petitioner's alleged right or interest can be determined;
- (b) The grounds of the proposed intervention;
- (c) The position of the petitioner in the proceeding.

Objections to a Petition to Intervene shall be filed with the Commission within ten days of service of the Petition to Intervene.

(4) A Petition for Rehearing or Reconsideration shall set forth clearly and concisely:

- (a) The factual and legal issues forming the basis for the petition;
- (b) The alleged error or errors in the Commission order;
- (c) The statutory provision or other authority upon which the petition is based.

B. Form of Petitions. With the following exception for Petitions to Intervene, all petitions shall conform to the requirements of R. 103-819 through R. 103-822. Handwritten Petitions to Intervene may be accepted by the Commission, if legible.

103-826. Answers.

Answers are submitted to the Commission in response to complaints and petitions, and to Rules to Show Cause issued by the Commission. Answers are not required to Petitions for Rehearing or Reconsideration.

A. Content of Answers.

(1) Answers shall be drawn so as to advise fully and completely the Commission and any party as to the nature of the defense. Answers shall admit or deny, specifically and in detail, each material allegation of the pleading answered, and shall state clearly and concisely the facts and law relied upon.

(2) In an answer to a Rule to Show Cause, mere general denials of the allegations contained in the rule which are unsupported by specific facts will not be considered as complying with this section and may be deemed a basis for entry of a final order without hearing, unless otherwise required by law, on the ground that that answer has raised no issue requiring a hearing or further proceeding.

B. Form of Answers. Except as provided in R. 103-826 all answers shall conform to the requirements of R. 103-819 through R. 103-822.

103-827. Protests.

A. In General. A protest is intended to advise the Commission and all parties to a proceeding before the Commission of the fact and character of the protestant's objection to part or all of the subject matter of the proceeding. The filing of a protest does not make the protestant a party of record. The protest will be placed in a public file associated with, but not part of the formal record, and will be available for such further exploration of the substantive matters raised therein by the Office of Regulatory Staff and other parties as may be appropriate.

B. Form of Protests. No specific form of protest shall be required. The letter or writing should contain the name and address of the protestant, the proceeding or matter to which the protest is addressed, a concise statement of the protest, and whether the protestant wishes to make an appearance at a hearing, if scheduled.

103-828. Amendments.

Any modification or supplement to a pleading shall be deemed an amendment to the pleading, and shall comply with the particular requirements of content and form for the type of pleading so amended. Upon its own motion or upon motion duly filed by a party of record, the Commission may for good cause decline to permit, or may strike in whole or in part, any amendment. No amendment to a pleading may be filed within ten (10) days prior to the commencement of or during a hearing unless directed or permitted by the Commission or presiding officer after opportunity for all parties of record to be heard thereon.

103-829. Motions.

A. Motions, except those made during hearings, will be reduced to writing and filed with the Chief Clerk at least ten (10) days prior to the commencement of a hearing. Responses to such motions are due within ten days after service of said motions. Replies to responses to motions shall be filed with the Commission within five days of service of the response. These times may be modified by order of the Commission or its designee for good cause. Written motions to quash a subpoena will be made pursuant to R. 103-832.

B. The Commission, in its discretion and upon due notice to all parties of record, may entertain oral argument and response on prefiled motions in advance of the scheduled hearing in the proceeding to which the motions pertain. Otherwise, such argument and response shall be made at the commencement of the hearing. The presiding officer may make a ruling upon such motion at the completion of oral argument, at the conclusion of the hearing, or in the written order making disposition of the subject matter of the proceeding.

103-830. Filing and Service of Pleadings.

All pleadings shall be filed with the Chief Clerk of the Commission and served on the Office of Regulatory Staff unless and until it chooses not to participate in a proceeding.

A. Service of Complaints and Answers.

(1) A complainant requesting a hearing shall file the complaint with the Chief Clerk. The Chief Clerk shall mail a copy of the complaint to the defendant within 14 days of filing.

(2) The defendant shall serve its answer on the complainant and shall file its answer with certification of service with the Commission within 30 days of receipt of the complaint, unless an extension of time is granted for good cause shown. Any defendant failing to file its answer within such period, unless an extension of time is granted, shall be deemed in default and all relevant facts stated in such complaint may be deemed admitted.

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B. Service of Petitions and Answers.

(1) If a person other than the petitioner is named in a petition for a declaratory order or in a petition for a rule to show cause, the Chief Clerk shall cause a copy of the petition to be mailed to such named person within 14 days of the filing of the petition.

(2) The person named in a petition for a declaratory order or in a petition for a rule to show cause shall serve its answer on the petitioner and shall file its answer with certification of service with the Chief Clerk within 30 days of the receipt of the petition from the Chief Clerk unless an extension of time is granted for good cause shown.

(3) A person filing a petition to intervene or a party of record filing a petition for rehearing or reconsideration shall file the petition with certification that service of the petition has been made on all parties of record. The Chief Clerk shall make available to the person seeking to intervene a service list consisting of the names of all parties of record.

C. Service of Amendments. Any amendment to a pleading shall be served and answered, if applicable, according to the requirements specified herein for the type of pleading sought to be amended.

103-831. Computation of Time.

The computation of time shall be governed by Rule 6 of the South Carolina Rules of Civil Procedure. Extensions of time may be granted by the Commission for good cause shown.

103-832. Subpoenas and Subpoenas Duces Tecum.

Subpoenas and Subpoenas Duces Tecum shall be issued and served in a manner consistent with the South Carolina Rules of Civil Procedure.

103-833. Written Interrogatories and Request for Production of Documents and Things.

A. Any material relevant to the subject matter involved in the pending proceeding may be discovered unless the material is privileged or is hearing preparation working papers prepared for the pending proceeding.

B. Unless under special circumstances and for good cause shown, written interrogatories shall not be served less than 10 days prior to the date assigned for commencement of hearing. Any party of record may serve upon other parties or parties of record written interrogatories to be answered by the party served. If the party served is a public or private corporation, partnership, association, or governmental agency, any officer or agent who possesses the desired information may respond to the interrogatories. Copies of interrogatories served shall also be filed with the Chief Clerk. Each interrogatory shall be answered separately and fully in writing, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the individual making them and subscribed by an appropriate verification. Objections are to be signed by the authorized representative or individual making them. The person upon whom the interrogatories have been served shall serve a copy of the answers and objections within the time period designated by the party of record submitting the interrogatories, but not less than 20 days after the service thereof, unless the time is extended by the Commission for good cause shown.

C. Unless under special circumstances and for good cause shown, requests for production of documents and things shall not be served less than 10 days prior to the date assigned for commencement of hearing. Any party of record may serve upon other parties or parties of record requests for production of documents and things to be answered by the party served. If the party served is a public or private corporation, partnership, association, or governmental agency, any officer or agent who possesses the desired information may respond to the

requests for production of documents and things. Copies of requests for production of documents and things served shall also be filed with the Chief Clerk. Each request for production of documents and things shall be answered separately and fully in writing, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the individual making them and subscribed by an appropriate verification. Objections are to be signed by the authorized representative or individual making them. The person upon whom the requests for production of documents and things have been served shall serve a copy of the answers and objections within the time period designated by the party of record submitting the requests for production of documents and things, but not less than 20 days after the service thereof, unless the time is extended by the Commission for good cause shown.

103-834. Depositions.

Any party of record to a proceeding may, by written request, ask the Commission or its designee_ for leave to take the testimony of any witness by deposition. The request shall set forth the facts the requesting party seeks to establish by the deposition. Such written request shall be filed with the Commission at least 10 days prior to the commencement of the scheduled hearing. The requesting party shall give notice by providing a copy of the written request to each party of record to the proceeding. If the Commission or its designee deems the request meritorious, it may issue an Order designating the individual whose deposition may be taken, specifying the subject matter of the examination, and setting forth the time and place of such deposition, and whether it shall be written or oral examination. All costs incidental thereto shall be paid by the party desiring such deposition. If the request is not deemed meritorious, the written request shall be denied by Order or otherwise.

103-835. Other Discovery Procedures

The S. C. Rules of Civil Procedure govern all discovery matters not covered in Commission Regulations.

103-836. How Hearings are Set.

The Commission will assign a time and place for hearing and shall give notice thereof as required by law.

103-837. Hearing Calendar.

The hearing calendar will be posted in the office of the Chief Clerk of the Commission and shall be available for inspection by the public during the office hours of the Commission. Proceedings pending upon this calendar will be heard in their order of assignment, so far as practicable, at the times and places fixed, provided, however, in its discretion, with or without motion, the Commission may, at any time with reasonable notice to the parties, advance or postpone any proceeding on the hearing calendar.

103-838. Continuance.

Any party of record desiring a continuance shall, immediately upon receipt of notice of the hearing or as soon thereafter as facts requiring such continuance come to its knowledge, notify the Chief Clerk, stating in detail the reasons why such continuance is necessary. Unless good cause is shown, no such continuance shall be granted.

103-839. Prehearing Conferences.

A. Purposes. Upon written notice by the Commission in any proceeding, parties of record or their authorized representative may be directed to meet before a designated staff member at a specified time and place for a conference, prior to a hearing, for the purpose of formulating issues, and considering:

- (1) The simplification of issues;

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- (2) The necessity or desirability of amending the pleadings for the purposes of clarification, amplification or limitation;
- (3) The possibility of obtaining admissions of fact and documents which will avoid unnecessary proof;
- (4) Limitations on the number and consolidation of the examination of witnesses;
- (5) The procedure at the hearing;
- (6) The distribution of written testimony and exhibits to the parties prior to the hearing;
- (7) Any other matters as may aid in the disposition of the proceeding, or settlement thereof.

B. Report of Stipulations. Following the prehearing conference, a proposed Report of Stipulations, reciting the action taken at the conference, amendments allowed to the pleadings, if any, and agreements, if any, made by the parties of record concerning all of the matters considered, shall be provided to the parties of record or their authorized representatives for approval. If no objection to the Report of Stipulations is filed within ten days after the date such Report is mailed, it shall be deemed to be approved. This Report, when approved, shall limit the issues to be heard at the hearing to those not disposed of by admissions or agreements of the parties or their authorized representative and will control the subsequent course of the formal proceeding unless modified at the hearing to prevent manifest injustice.

103-840. Consolidated Hearings.

The Commission, upon its own motion or upon motion by any party, may order two or more proceedings involving a similar question of law or fact to be consolidated for hearing where rights of the parties or the public interest will not be prejudiced by such procedure.

103-841. Presiding Officer.

A. In General. When evidence is to be taken in a proceeding before the Commission, any Commissioner or any hearing examiner designated by the Commission may preside at the hearing.

B. Powers and Duties of Presiding Officer. A presiding officer shall have the duty to conduct full, fair, and impartial hearings, to take appropriate action to avoid unnecessary delay in the disposition of proceedings, and to maintain order; and shall possess all powers necessary to that end, including the following:

- (1) To administer oath and affirmations;
- (2) To order subpoenas issued and to provide for other methods of discovery;
- (3) To receive evidence and rule upon all objections and motions which do not involve final determination of proceedings;
- (4) To take such other action as may be necessary and appropriate to the discharge of duties consistent with the statutory authority or other authorities under which the Commission functions.

C. Report of Presiding Officer. When a majority of the Commissioners do not hear a proceeding or read the record thereof, the presiding officer shall mail to the parties of record a proposed Order. The proposed Order shall contain a statement of facts relied upon in formulating such Order and each issue of fact or law necessary to it. Any party of record will then have ten days in which to file exceptions, present briefs, and file written requests for oral argument to the Commission, if it is desired to do so. If exceptions and briefs are filed within the prescribed time period, the Commission will consider the points raised therein and will issue its Order

based upon the record of the formal proceeding, the proposed Order, and the exceptions and briefs filed. If a written request for oral argument is filed, the Commission will establish a date for such oral argument to be heard and will notify all parties of record as to date, time and place for such argument. Thereafter, the Commission will issue its Order based upon the record of the formal proceeding, the proposed Order, any exceptions and briefs filed, and the oral argument presented. If no exceptions, briefs, or written requests for oral argument are received within the prescribed ten days, the Commission will issue its Order based upon the record of the formal proceeding and the proposed Order.

103-842. Order of Procedure.

A. Investigations. Upon an investigation initiated by the Office of Regulatory Staff or by request of the Commission, evidence in a proceeding will ordinarily be received in the following order:

- (1) Office of Regulatory Staff;
- (2) Respondent;
- (3) Other parties.

B. Applications and Petitions. Evidence will ordinarily be received upon applications and petitions in the following order:

- (1) Applicant or Petitioner;
- (2) Other parties;
- (3) Office of Regulatory Staff.

C. Complaint. Evidence will ordinarily be received upon complaints in the following order:

- (1) Complainants;
- (2) Respondents;
- (3) Other parties;
- (4) Office of Regulatory Staff.

103-843. Standard of Conduct.

All individuals acting in a representative capacity in proceedings before the Commission shall conform to the standards of ethical conduct required of attorneys before the courts of this State. If any such individual does not conform to such standards, the Commission may decline to permit such individual to act in a representative capacity in any proceeding before the Commission.

103-844. Failure to Attend Designated Hearing.

A. At the time and place set for hearing, if an applicant, petitioner, or complainant fails to attend personally or through an authorized representative without having obtained a continuance in the manner specified in R. 103-838, the Commission may dismiss the petition, application, or complaint with or without prejudice or may, upon good cause shown, recess such hearing for a further period to be set by the Commission to enable such applicant, petitioner, or complainant to attend.

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B. Parties of record or their authorized representative shall be present during all proceedings of any scheduled matter pending before the Commission except upon leave of the presiding officer.

103-845. Witnesses.

A. In General. Witnesses shall be examined orally. Witnesses presenting testimony shall be sworn, or shall affirm, before their testimony shall be deemed evidence in the proceeding or any questions are put to them.

B. Cumulative Testimony Restricted. The presiding officer may limit the number of witnesses whose testimony may be merely cumulative. In order to enforce this section, the presiding officer may require a clear statement on the record of the nature of the testimony to be given by any witness proffered.

C. Prepared Statements and Exhibits. A witness may read into the record, as his direct testimony, statements of fact or expressions of his opinion prepared by him, or written answers to interrogatories of counsel. A prepared statement of a witness may also be received as an exhibit. All parties of record, insofar as it is practicable, should prefile with all other parties of record copies of prepared testimony and exhibits which the party of record proposes to use during a hearing. In proceedings involving utilities, the Commission shall require any party and the Office of Regulatory Staff to file copies of testimony and exhibits and serve them on all other parties of record within a specified time in advance of the hearing. In proceedings involving companies other than utilities, the Commission may require any party and staff to file copies of testimony and exhibits and serve them on all other parties of record within a specified time in advance of the hearing. When prepared testimony and exhibits are prefiled with the Commission, twenty-five copies, unless otherwise specified, of such testimony and exhibits must be furnished to the Commission for the use of the Commission and Staff.

103-846. Evidence.

A. In General. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in the Court of Common Pleas shall be followed. Effect shall be given to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

B. Reception and Ruling on Proffered Evidence. The presiding officer shall rule on the admissibility of all evidence and shall otherwise control the reception of evidence so as to confine it to the issues in the hearing.

C. Notice of Cognizable Facts. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties of record shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed. Parties shall be afforded an opportunity to contest the material proposed to be noticed.

103-847. Documentary Evidence.

A. Commission Files. In case any matter contained in a report or other document on file with the Commission is offered in evidence, such report or other document need not be produced or marked for identification, but may be offered in evidence by specifying the report, document, or file containing the matter so offered.

B. Records in Other Proceedings. If the transcript, or any portion thereof, of another proceeding before the Commission is desired to be introduced into the formal record at a subsequent hearing, a true copy of the portion desired must be presented.

C. 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

of relevant data of such documents shall be prepared in an orderly manner and offered as an exhibit, giving other parties to the proceeding reasonable opportunity to examine both the abstract and the documents.

103-848. Exhibits.

A. **SIZE OF EXHIBITS.** Except by special permission of the presiding officer, no prepared exhibits offered as evidence shall be of greater size, when folded, than 8 1/2 inches by 11 inches.

B. **Copies of Exhibits.** When exhibits are offered in evidence, the original shall be furnished to the reporter, and the party offering exhibits should also be prepared to furnish a copy to each Commissioner sitting and the presiding officer, each party of record, and the staff, unless such copies have been previously furnished or the presiding officer directs otherwise. Whenever practicable, the parties should exchange copies of exhibits which they propose to use prior to the hearing.

C. **Marking of Exhibits.** All exhibits shall be marked numerically in the order of identification.

103-849. Objections to the Introduction of Evidence.

A. **In General.** Any evidence offered in whatever form shall be subject to appropriate and timely objection. When objection is made to the admissibility of evidence, such evidence may be received subject to later rulings by the presiding officer. The presiding officer, in his discretion, either with or without objection, may exclude inadmissible, incompetent, cumulative, or irrelevant evidence, or order the presentation of such evidence discontinued. Parties objecting to the introduction of evidence shall briefly state the grounds of objection at the time such evidence is offered.

B. **Offers of Proof.** When the presentation of any evidence is objected to and such objection is sustained by the presiding officer, the proponent of the evidence may request that she or he be allowed to present an offer of proof for the formal record. Such offer of proof shall consist of a statement of the substance of the evidence to which objection has been sustained, or if the excluded evidence consists of evidence in documentary or written form, a copy of such evidence shall constitute the offer of proof.

103-850. Transcripts.

A. **In General.** The Commission will cause to be made a record of all proceedings.

B. **Copies of Transcript.** Copies of the typewritten transcript of any proceeding may be obtained from the hearing reporters upon request and after payment of the applicable fee.

103-851. Briefs or Proposed Orders.

A. **Due Date.** The presiding officer shall fix the time for filing and service of briefs or proposed orders.

B. **Table of Contents and Citations.** A brief of more than 20 pages shall contain a table of contents showing arguments presented with page references and a list of citations, alphabetically arranged with references to the pages where they appear.

C. **Scope of Briefs or Proposed Orders.** Briefs should contain:

- (1) A concise statement of the case;
- (2) An abstract of the evidence relied upon, preferably assembled by subjects;
- (3) Factual and legal arguments, or if a proposed Order, reasons and authorities therefore.

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D. Exhibit Reproduction. Exhibits may be reproduced in an appendix to the brief. Analysis of such exhibits should be included in the abstract of evidence under the subjects to which they pertain.

E. Filing and Service. Briefs or proposed orders must be filed with the Chief Clerk and served on parties of record on or before the date fixed. If not filed on or before the date fixed, the brief will not be received without permission from the Commission or the presiding officer. All briefs shall be accompanied by a certificate showing service upon all parties of record or their authorized representatives who appeared at the hearing. Ten copies of each brief shall be furnished for the use of the Commission and staff.

103-852. Service of Orders.

All Orders representing final disposition of a proceeding shall be filed with the Chief Clerk who shall serve copies thereof upon all parties of record or their authorized representative. Such service shall be by certified mail, registered mail, or by delivery to the parties or their attorneys, as may be appropriate.

103-853. Finality of Decision.

All proceedings before the Commission shall be disposed of by issuance of an Order as defined in R. 103-804K served upon all parties of record.

A. Effective Date of Orders. Commission Orders shall take effect and become operative when served by registered or certified mail, unless otherwise designated, and shall continue in force and effect either for a period which may be designated therein or until rescinded, modified or amended by the Commission. If an Order cannot be complied with within prescribed time limit, the Commission may grant such additional time as in its judgment is reasonably necessary to comply with the Order.

B. Rescinding, Modifying, Amending Order or Decision. The Commission may rescind, modify, or amend any Order. If the rescission, modification or amendment pertains to other than clerical errors or omissions, parties of record shall be provided notice and opportunity to be heard. Any Order rescinding, modifying or amending a prior Order shall have the same effect as is provided for in original Orders, but no such Order shall affect the legality or validity of any acts done pursuant to the original Order before notice of such rescission, modification, or amendment.

103-854. Petition for Rehearing or Reconsideration.

Unless otherwise provided by law, no cause of action shall accrue in any court of competent jurisdiction to vacate or set aside any Order of the Commission, either in whole or in part, unless a petition for rehearing or reconsideration and proof of service are filed with the Commission, and an Order has been issued disposing of the matter.

A. Form, Contents of Petition for Rehearing or Reconsideration. All petitions for rehearing or reconsideration shall conform to R. 103-825.

B. Time limit for filing a petition for rehearing or reconsideration. Except as otherwise provided by S. C. Code Ann., Section 58-5-330, 58-9-1200, 58-11-550, 58-27-2150 (1976), any party of record may, within 20 days after the date of receipt of Order, petition the Commission for rehearing or reconsideration. A Petition for Reconsideration shall be subject to the same statutory parameters as a Petition for Rehearing.

C. Action by the Commission. The Commission must act upon the petition for rehearing or reconsideration within thirty (30) days after such petition is filed except as otherwise provided by S. C. Code Ann., Section 58-5-330, 58-9-1200, 58-11-550, 58-27-2150 (1976). Failure to act within this time period shall be deemed a denial of the relief sought in the petition.

D. Effect of Filing a Petition. Filing a petition shall not excuse or delay compliance with an Order issued by the Commission, unless specifically provided by the Commission.

103-855. Presiding Officer's Proposed Report.

In the event a presiding officer hears a matter before the Commission, the parties of record may, by stipulation, waive the preparation of a proposed report. Parties of record may file exceptions to the proposed report pursuant to R. 103-841C.

103-856. Appellate Review.

A. In General. After denial of rehearing, a party of record may appeal a Commission Order to the appropriate judicial forum pursuant to applicable provisions of law.

B. Stay of Commission Order Pending Review. Except as otherwise provided by law, an appeal from an Order of the Commission shall not of itself stay or suspend operation of the Order of the Commission.

C. Transcript of Testimony. A transcript of the proceeding will be furnished upon request directed to the Commission's hearing reporters, stating the number of copies desired, the person to be billed and the person to whom the transcript is to be sent.

D. Record on Appeal. In any action to review a final decision of the Commission, the record shall consist of all items set forth in R. 103-804E.

E. Stipulations. The Commission, and any party of record appealing a Commission Order, may stipulate that a certain question or questions and a specified portion of the evidence shall be certified to the Court for its judgment, whereupon such stipulation and the question or questions and the evidence therein specified shall constitute the record on view.

F. Priority. Cases appealed from the Commission shall have priority where such is given by statute.

103-857. Penalty Provisions.

A. In General. Any fine or penalty assessed against any person as allowed by statute, may be imposed in accordance with applicable provisions of law and these rules as established by the Commission.

B. Calculation of Fine or Penalty. The fine or penalty will be incurred and will accrue each day with each day considered a separate breach or violation.

C. Payment of Fine or Penalty. A fine or penalty assessed pursuant to the provisions of these rules shall be paid immediately upon demand by certified check made payable to the State of South Carolina. Failure to honor this demand within ten days shall result in a filing in the appropriate county office or offices, for collection of such fine or penalty as provided by law.

D. Disbursement of Fine or Penalty. All fines or penalties assessed by the Commission shall go into the general funds of the State unless otherwise provided by law.

103-858. General Provisions.

A. Additional Hearings. The Commission may, in addition to other hearings as provided for by rule or statute, conduct such other hearings as may be required in the administration of the Commission's power and duties.

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B. Construction. If any provision of these rules or the application thereof is held invalid, the remainder of the rules or other application of such rules shall not be affected.

103-859. Emergency Procedures.

A. When it appears to the Office of Regulatory Staff that a utility is planning to disconnect its service to a customer(s) in violation of the Commission's Rules and Regulations and under circumstances which prevent the full Commission from meeting to address the issue, upon the request of the Office of Regulatory Staff, any one Commissioner may issue an Order on behalf of the Commission restraining and/or enjoining a utility from disconnecting service or requiring the utility to maintain the status quo with its customer(s) until further Order of the Commission. Thereafter, at the next scheduled Commission meeting with proper legal notice, the full Commission shall consider the Order of the single Commissioner and take such action on the single Commissioner's Order as it deems appropriate.

B. When it appears to the Office of Regulatory Staff that a utility has disconnected a customer's (s') service in violation of the Commission's Rules and Regulations and under circumstances which prevent the full Commission from meeting to address the issue, upon the request of the Office of Regulatory Staff, any one Commissioner may issue an Order on behalf of the Commission requiring the utility to reconnect the service and maintain that status quo until further Order of the Commission. Thereafter, at the next scheduled Commission meeting with proper legal notice, the full Commission shall consider the Order of the single Commissioner and take such action on the single Commissioner's Order as it deems appropriate.

Fiscal Impact Statement: There will be no increased costs to the State or its political subdivisions.

Statement of Rationale: The purpose of the revisions to 26 S.C. Code Ann. Regs. 103-800, *et. seq.* is to conform the Public Service Commission's Practice and Procedure regulations with Act No. 175 of 2004. There was no scientific or technical basis relied upon in the development of this regulation.

Document No. 3052
PUBLIC SERVICE COMMISSION
CHAPTER 103

Statutory Authority: 1976 Code Section 58-3-140

26 S.C. Code Ann. Regs. 103-600, *et. seq.* Telecommunications Utilities

Synopsis:

In 2004, the General Assembly passed Act No. 175 which restructured the Public Service Commission. This Act modified the structure of the Agency and its functions and created the Office of Regulatory Staff. Several duties of the Public Service Commission were transferred to the Office of Regulatory Staff on January 1, 2005. The purpose of the revisions to 26 S.C. Code Ann. Regs. 103-600, *et. seq.* (1976 & Supp. 2005) of the Public Service Commission's regulations is to amend Article 6 to conform to the new standards set out by Act 175 of 2004.

Instructions:

Print regulations in accordance with directions given below to show most current date of revised regulations:

**ARTICLE 6
TELECOMMUNICATIONS UTILITIES
SUBARTICLE 1**

GENERAL

103-600 as amended and shown below.
 103-601 as amended and shown below.
 103-602 - Leave as it currently exists.
 103-602.1 - Leave as it currently exists.
 103-602.2 - Leave as it currently exists.
 103-602.3 - Delete as it currently exists and publish as printed below.
 103-602.4 - Delete as it currently exists and print as shown below.
 103-602.5 - Delete as it currently exists and print as shown below.
 103-602.6 - Delete as it currently exists and print as shown below.
 103-602.7 - Delete as it currently exists and print as shown below.
 103-602.8 - Delete as it currently exists and print as shown below.
 103-602.9 - Delete as it currently exists and print as shown below.
 103-602.10 - Delete as it currently exists and print as shown below.
 103-602.11 - Delete as it currently exists and print as shown below.
 103-603 as amended and shown below.
 103-604 as amended and shown below.
 103-605 as amended and shown below.
 103-606 as amended and shown below.
 103-610 as amended and shown below.
 103-611 as amended and shown below.
 103-612 - Delete as it currently exists and print as shown below.
 103-613 - Delete in its entirety.
 103-614 as amended and shown below.
 103-615 as amended and shown below.
 103-616 as amended and shown below.
 103-616.1 - Delete in its entirety.
 103-616.2 - Delete in its entirety.
 103-617 as amended and shown below.
 103-618 as amended and shown below.
 103-619 as amended and shown below.
 103-620 - Delete as it currently exists and print as shown below.
 103-621 - Delete as it currently exists and print as shown below.
 103-621.1 as amended and shown below.
 103-621.2 - Leave as it currently exists.
 103-621.3 as amended and shown below.
 103-621.4 as amended and shown below.
 103-621.5 as amended and shown below.
 103-621.6 as amended and shown below.
 103-621.7 as amended and shown below.
 103-622 - Leave as it currently exists.
 103-622.1 as amended and shown below.
 103-622.2 as amended and shown below.
 103-622.3 as amended and shown below.
 103-622.4 as amended and shown below.
 103-622.5 as amended and shown below.
 103-623 as amended and shown below.

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103-623.1 as amended and shown below.
103-623.2 as amended and shown below.
103-623.3 as amended and shown below.
103-623.4 as amended and shown below.
103-624 as amended and shown below.
103-624.1 - Leave as it currently exists.
103-624.2 as amended and shown below.
103-624.3 - Leave as it currently exists.
103-625 as amended and shown below.
103-626 as amended and shown below.
103-627 as amended and shown below.
103-628 as amended and shown below.
103-629 as amended and shown below.
103-630 as amended and shown below.
103-631 as amended and shown below.
103-632 - Delete in its entirety.
103-632.1 - Delete in its entirety.
103-632.2 - Delete in its entirety.
103-632.3 - Delete in its entirety.
103-632.4 - Delete in its entirety.
103-632.5 - Delete in its entirety.
103-633 - Leave as it currently exists.
103-640 as amended and shown below.
103-641 as amended and shown below.
103-642 as amended and shown below.
103-643 as amended and shown below.
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103-646 as amended and shown below.
103-650 as amended as shown below.
103-651 as amended and shown below.
103-652 as amended and shown below.
103-653 as amended and shown below.
103-654 - Leave as it currently exists.
103-660 - Leave as it currently exists.
103-661 as amended and shown below.
103-662 as amended and shown below.
103-663 - Leave as it currently exists.
103-663.1 - Leave as it currently exists.
103-663.2 as amended and shown below.
103-663.3 as amended and shown below.
103-663.4 - Leave as it currently exists.
103-663.5 - Leave as it currently exists.
103-663.6 as amended and shown below.
103-663.7 as amended and shown below.
103-670 as amended and shown below.
103-671 as amended and shown below.
103-672 as amended and shown below.
103-680 as amended and shown below.
103-681 - Leave as it currently exists.
103-682 - Leave as it currently exists.
103-683 - Leave as it currently exists.
103-684 as amended and shown below.

Text:

103-600. Authorization of Rules.

A. Section 58-9-810 of the Code of Laws of South Carolina, 1976, provides:

"The commission may make such rules and regulations not inconsistent with law or statute as may be proper in the exercise of its powers or for the performance of its duties under Articles 1 through 13 of this chapter all of which shall have the force of law."

In accordance with the above provisions, the Public Service Commission has adopted the following rules and regulations and fixed the following standards to govern telephone and telegraph service by telephone and telegraph utilities.

All previous rules and regulations or standards are hereby annulled, revoked and superseded.

B. The adoption of these rules shall in no way preclude the Public Service Commission from altering, amending or revoking them in whole or part, or from requiring any other or additional service, equipment, facility or standard, either upon complaint or upon its own motion, or upon the application of any telephone or telegraph utility.

103-601. Application of Rules.

1. Jurisdiction. These rules and regulations shall apply to any person, firm, partnership, cooperative or corporation, which is now or may hereafter become engaged as a telephone utility in the business of furnishing communications service to any customer within the State of South Carolina and to the customers of such telephone utility.

2. Purpose. These rules and regulations are intended to define good practices. They are intended to insure adequate and reasonable service. The utilities shall assist the commission with the implementation of these rules and regulations.

3. Waiver of Rules. In any case where compliance with any of these rules and regulations introduces unusual difficulty or where circumstances indicate that a waiver of one or more rules or regulations is otherwise appropriate, such rule or regulation may be waived by the commission upon a finding by the commission that such a waiver is not contrary to the public interest.

103-602. Definitions

103-602.1. Access Line.

103-602.2. Commission

103-602.3. Customer

Any person, firm, association or corporation, or any agency of the Federal, State or local government, being supplied telecommunications service by a utility.

103-602.4. Interexchange Carrier.

Carrier authorized by the commission to provide services related to long distance services.

103-602.5. ORS.

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Office of Regulatory Staff

103-602.6. PSP.

Payphone Service Provider.

103-602.7. Radio Common and Cellular Carrier.

A mobile telecommunications carrier licensed by the Federal Communications Commission (FCC) and authorized by the FCC to receive and transmit signals from mobile transmitter within a specified geographic area.

103-602.8. Reference.

For the purpose of these rules and regulations the reference as specified in R.103-642 will be used for the definitions of terms, abbreviations, units of measure, etc.

103-602.9. Standard Network Interface Device.

The point of demarcation between telephone company-owned facilities and customer-owned wiring and/or equipment.

103-602.10. Telephone Utility.

A telephone utility operating under the jurisdiction of the commission.

103-602.11 Written or in Writing.

Written or in writing includes, without limitation, electronic transmissions.

103-603. Authorization for Rates and Charges.

A. No schedules of rates or tariffs involving rates under the jurisdiction of the commission shall be changed until after proposed change has been approved by the commission, unless they are exempt from such approval by statute, order of the commission, or other provision of law.

B. All rates, tolls, or charges involving rates under the jurisdiction of the commission proposed to be put into effect by any telephone utility shall be first approved by the commission before they shall become effective, unless they are exempt from such approval by statute, order of the commission, or other provision of law.

C. No rate or toll charge involving rates under the jurisdiction of the commission of any telephone utility shall be deemed approved nor consented to by the mere filing of a schedule or other evidence thereof in the offices of the commission, unless otherwise provided for by law.

103-604. Territory and Certificated Area.

Each telephone utility shall provide regulated service only within the areas authorized by the commission, unless exempt by commission action, order or statute.

103-605. Telephone Utility Rules and Regulations.

Each telephone utility shall adopt such rules, regulations, operating procedures, policies and instructions as may be necessary to govern all aspects of telephone service to its customers so long as those rules and regulations, operating procedures, policies and instructions are not in contradiction to rules and regulations and orders of the commission or other statutory laws.

All rules and regulations, operating procedures, policies and instructions as outlined above are subject to review by the commission. Upon request, each utility shall make a copy of such rules and regulations, operating procedures, policies and instructions available to the ORS.

103-606. Service Offerings.

Each telephone utility is authorized to offer such types, class, grades, classification and forms of service as it may deem necessary.

SUBARTICLE 2

RECORDS AND REPORTS

103-610. Location of Records and Reports.

All records required by these rules or necessary for the administration thereof, shall be kept within the State, unless otherwise authorized by the commission. These records shall be available for examination by the ORS, or its authorized representatives at all reasonable hours.

103-611. Retention of Records.

Retention of records shall be as specified in the Federal Communications Commission's Rules and Regulations, Part 42, unless otherwise directed by the commission. Further, the telephone utility shall maintain sufficient records necessary to verify and substantiate all requirements included in these rules. These records include, but are not limited to, trouble reports, service orders, itemized customer billing records, customer deposits, and complaints.

103-612. Data to be Filed with the Commission and Provided to the ORS.

The telephone utility shall file the following documents and information:

1. Annual Report. Each telephone utility operating in the State shall file an annual report with the commission and provide a copy to the ORS, giving such information as the commission may direct.

2. Current Information and Documents. The information required under this Section shall be kept current at ALL TIMES.

2.1. Tariff. Unless otherwise provided by law, each telephone utility shall file for approval with the commission and serve on the ORS a tariff with respect to all regulated services offered by the utility.

A. Each telephone utility must provide the ORS a copy of its most recent tariffs.

B. The telephone utility's tariff shall include:

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- a. A copy of the telephone utility's rules, terms, or conditions, describing the telephone utility's policies and practices in rendering regulated services.
- b. A list of all types, grades, classifications and forms of regulated service offered.
- c. The non-recurring charges, recurring charges, and the termination charges, if any, that apply to the services.
- d. Definitions of all types, classes, grades, classifications, and forms of regulated service offered.

2.3. Operating Area Maps. The commission and the ORS shall maintain updated maps showing commission-approved areas and/or exchange service-area(s).

The maps, as outlined above, shall be revised whenever boundary changes are made and shall be signed by the proper officials and filed for approval with the commission.

2.4. Authorized Telephone Utility Representative. Each telephone utility shall maintain with the commission and furnish a copy to the ORS, the name, title, address, and telephone number of the persons who should be contacted in connection with:

- a. General Management Duties
- b. Customer Relations (Complaints)
- c. Engineering Operations
- d. Test and Repairs
- e. Emergencies during non-office hours

103-613. Inspection of Utility Plant

103-614. Interruption of Service.

Each telephone utility shall keep a record of any condition resulting in any interruption of service affecting its entire system or major division of a telephone exchange, including a statement of the time, duration, cause of any such interruption, and steps taken to correct the interruption. The utility shall report any information required to be reported to the FCC regarding outages to the commission and provide a copy electronically to the ORS. This information should be submitted as soon as practicable, and a copy of any written report submitted to any Federal jurisdictional entity shall also be submitted to the commission and a copy provided to the ORS.

103-615. Accidents.

Each telephone utility shall maintain adequate and accurate records of each accident happening in connection with the operation of its property, facilities, or service wherein any person shall have been killed or whereby any serious property damage shall have been caused.

103-616. Complaints Received from the ORS.

Each telephone utility shall keep a record of all complaints received from the ORS. This record shall show the name and address of the complainant, the date, the nature of the complaint, and the adjustment or disposal thereof.

103-616.1. Written Complaints

103-616.2. Oral Complaints

103-617. Tests.

Each telephone utility shall keep a record of all tests procedures which are performed as a result of these rules, unless otherwise directed by the commission.

103-618. Service Reports.

Each telephone utility shall provide the following service reports to the ORS on a quarterly basis within thirty (30) days of the end of each calendar quarter.

A. Trouble reports per hundred access lines:

The report shall contain the total number of actual customer trouble reports received per hundred access lines for the telephone utility's regulated operations.

B. Customer out of service trouble clearing times:

The report shall contain the percentage number of out of service reports cleared within twenty four (24) hours, excluding weekends and holidays.

103-619. Held Applications/Availability of Service.

The following information shall be provided to the ORS on a quarterly basis within thirty (30) days of the end of each calendar quarter. Reported information which indicates that the commission's specified objectives have not been met shall be accompanied by explanation. Reports shall show results by wire center, central office, exchange or maintenance group. This information shall be reported as a percentage of work order activity characterized as follows:

- a. The number of applications for new service held over thirty (30) days.
- b. The number of applications for regrade held over thirty (30) days.
- c. The total number of access lines.
- d. The percentage of service orders for installations and re-installations completed within five (5) working days.
- e. Commitments fulfilled.

SUBARTICLE 3

CUSTOMER RELATIONS

103-620. Customer Information.

Each telephone utility shall:

- a. Maintain up-to-date maps, plans, or records of its entire system, with other information as may be necessary to enable the telephone utility to advise prospective customers, and others entitled to the information, as to the facilities available for serving customers within its operating area.

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b. If required by law and so directed by the commission, notify each customer affected in writing, of any proposed changes in rates and charges. The form of such notification shall be prescribed by the commission. A certification that the above notice requirement has been met shall be furnished to the commission and served on the ORS by the telephone utility.

c. Furnish to a customer, upon request, information as to the telephone utility's billing procedures.

d. Provide adequate means whereby each customer can contact repair service at all hours.

e. Notify its customers that the telephone utility is under the jurisdiction of the commission, and that its customers may, if necessary, seek assistance from ORS regarding the telephone utility's regulated operations or file a formal complaint with the commission regarding an unresolved dispute involving the telephone utility's regulated operations.

103-621. Customer Deposits.

A. Each telephone utility may require from any customer or from any prospective customer, a deposit intended to guarantee payment of bills for regulated service, if any of the following conditions exist:

1. The customer has had two 30-day arrearages in the past 24 months, or the customer has been sent two or more late payment notices in the past 9 months; or

2. A new customer cannot furnish either an acceptable co-signer or guarantor who is a customer of the utility within the State of South Carolina to guarantee payment; or

3. The customer's gross monthly billing increases; or

4. A customer has had his service terminated by any telephone utility for non-payment or fraudulent use; or

5. The utility determines, through use of commercially acceptable methods, that the customer's credit and financial condition so warrants.

B. Each telephone utility shall inform affected prospective customers of the provisions contained in R. 103-621-(A).

C. A utility is not required to install new service to a customer prior to the utility's receipt of any deposit that is required of that customer.

103-621.1. Deposit Receipt.

Each utility shall maintain records of each deposit it receives from a customer and shall provide means whereby a customer may establish a claim regarding his deposit.

103-621.2. Amount of Deposit.

103-621.3. Interest on Deposits.

A. Simple interest on deposits at the rate not less than that as prescribed by the commission shall be paid by the telephone utility to each customer required to make such deposit for the time it is held by the telephone utility.

B. The interest shall be accrued annually and payment of such interest shall be made to the customer at least every two (2) years and at the time the deposit is returned.

C. The deposit shall cease to draw interest on the date it is returned, the date service is terminated, or on the date notice is sent to the customer's last known address that the deposit is no longer required.

103-621.4. Deposit Records.

Each telephone utility shall keep records to show:

- a. The name and address of each depositor.
- b. The amount and date of the deposit.
- c. The last transaction concerning the deposits.
- d. The reasons why deposit retained after two year retention period. (See R. 103-621.5)

103-621.5. Deposit Retention.

Deposits shall be refunded completely with interest after two years unless the customer has had two 30-day arrearages in the past 24 months, or has had service denied or interrupted for non-payment of bills, or has been sent more than two late payment notices in the past 9 months, or has a returned check in the past 6 months.

103-621.6. Unclaimed Deposits.

A record of each unclaimed deposit must be maintained for at least two years, during which time the telephone utility shall make a reasonable effort to return the deposit. Unclaimed deposits, together with accrued interest, shall be treated in accordance with law.

103-621.7. Deposit Credit.

Where a customer has been required to make a deposit, that deposit shall not relieve the customer of the obligation to pay the service bill when due, but where such deposit has been made and service has been disconnected because of nonpayment of account, then unless the customer shall, within seventy-two hours after service has been disconnected, apply for reconnection of service and pay the account, the account may be discontinued. If the telephone utility discontinues the account, the telephone utility shall apply the deposit of such customer toward the discharge of such account and shall refund to the customer any excess.

103-622. Customer Billing.

103-622.1. Bill Forms.

Each telephone utility's bill must comply with the Federal Communications Commission's "Truth in Billing Requirements" that are in effect at the time the utility's bill is prepared.

103-622.2. Late Payment Charges.

A maximum of one and one half percent (1 1/2 %) may be added to any unpaid balance brought forward from the previous billing date to cover the cost of collection and carrying accounts in arrears. This method of late payment charge will be made in lieu of any other penalty.

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103-622.3. Disconnection and Reconnection.

Whenever regulated telephone service is denied or discontinued for any appropriate reason, the telephone utility may make a tariffed charge for cost incurred in disconnecting or discontinuing the regulated telephone service and reconnecting it after restoration and may require payment for service not previously billed.

103-622.4. Payment by Check.

The telephone utility, at its option for good cause, may refuse to accept a check tendered as payment on a customer's account.

103-622.5. Deferred Payment Plan.

The telephone utility may provide for the arrangement of a deferred payment plan to enable a residential customer to make payment by installments where such customer is unable to pay the amount due for service. The deferred payment plan may require the affected customer to maintain his account current and pay not less than 1/6 of the outstanding balance for a period not to exceed six months. The outstanding balance may include the late payment charge authorized by R. 103-622.2. A deferred payment plan is any agreement to defer a payment to the next billing cycle.

103-623. Adjustment of Bills.

If it is found that a telephone utility has directly or indirectly, by any device whatsoever, demanded, charged, collected or received from any customer a greater or lesser compensation for any service rendered or to be rendered by such telephone utility than that prescribed in the schedules of such telephone utility applicable thereto then filed in the manner provided in Title 58 of the South Carolina Code of Laws, or if it is found that any customer has received or accepted any service from a telephone utility for a compensation greater or lesser than prescribed in such schedules; or if, for any reason, billing error has resulted in a greater or lesser charge than that incurred by the customer for the actual service rendered, then the method of adjustment for such overcharge or undercharge shall be as provided by the following:

103-623.1. Customer Willfully Overcharged.

If the telephone utility has willfully overcharged any customer, the telephone utility shall refund the difference, plus interest, as prescribed by the commission, for the period of time that can be determined that the customer was overcharged.

103-623.2. Customer Inadvertently Overcharged.

If the telephone utility has inadvertently overcharged a customer as a result of a misapplied schedule or any other human or machine error, the telephone utility shall, for any amount of one dollar (\$1.00) or more (amounts less than \$1.00 will be credited to account) at the customer's option, credit, or refund the excess amount paid by that customer or credit the amount billed as provided by the following:

- a. If the interval during which the customer was overcharged can be determined, then the telephone utility shall credit or refund the excess amount charged during the interval, provided that the applicable statute of limitations shall not be exceeded.
- b. If the interval during which the customer was overcharged cannot be determined, then the telephone utility shall credit or refund the excess amount charged during the 12-month period preceding the date when the error was discovered.

c. If the exact amount of the overcharge incurred by the customer during the billing periods subject to adjustment cannot be determined, then the credit or refund shall be based on an appropriate estimated amount of excess payment.

103-623.3. Customer Undercharged Due to Willfully Misleading Company.

If the telephone utility has undercharged any customer as a result of a fraudulent or willfully misleading action of that customer, or any action by any person (other than the employees or agents of the telephone utility), such as tampering with the facilities, when it is evident that such tampering or bypassing occurred during the residency of that customer, or if it is evident that a customer has knowledge of being undercharged without notifying the telephone utility as such, then the telephone utility shall recover the deficient amount provided as follows:

- a. If the interval during which the customer was undercharged can be determined, then the telephone utility shall collect the deficient amount incurred during the entire interval, provided the applicable statute of limitations is not exceeded.
- b. If the interval during which the customer was undercharged cannot be determined, then the telephone utility shall collect the deficient amount incurred during the 12-month period preceding the date when the billing error was discovered by the telephone utility.

103-623.4. Customer Undercharged Due to Human or Machine Error.

If the telephone utility has undercharged any customer as a result of a misapplied schedule, or any human or machine error then the telephone utility may recover the deficient amount as follows:

- a. If the interval during which a customer was undercharged can be determined, then the telephone utility may collect the deficient amount incurred during the entire interval up to a maximum period of six months.
- b. If the interval during which a customer was undercharged cannot be determined, then the telephone utility may collect the deficient amount incurred during the six month period preceding the date when the billing error was discovered by the telephone utility.
- c. The customer shall be allowed to pay the deficient amount, in equal installments added to the regular monthly bills devoid of late charges, over the same number of billing periods which occurred during the interval the customer was subject to pay the deficient amount.

103-624. Applications for Regulated Service.

103-624.1. Method

103-624.2. Obligation.

The applicant shall, at the option of the telephone utility, be required to sign a service agreement or a contract. In the absence of such service agreement or contract, the accepted application shall constitute a contract between the telephone utility and the applicant, obligating the applicant to pay for service in accordance with the telephone utility's tariff currently on file with the commission, and to comply with the commission's and the telephone utility's rules and regulations.

103-624.3. Termination.

103-625. Reasons for Denial or Discontinuance of Service.

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Service may be refused or discontinued for any of the reasons listed below, for any reason set forth in the utility's tariffs, or for any reason set forth in the utility's individual contracts for services. Unless otherwise stated, the customer shall be allowed a reasonable time in which to comply with the rule before service is discontinued.

- a. Without notice, in the event of a condition determined by the telephone utility to be hazardous or dangerous.
- b. Without notice, in the event of customer use of equipment in such a manner as to adversely affect the telephone utility's service to others.
- c. Without notice, in the event of unauthorized use of telephone service.
- d. For the customer tampering with equipment furnished and owned by the telephone utility.
- e. For violation of and/or non-compliance with the commission's Orders or regulations governing service supplied by the telephone utilities.
- f. For failure of the customer to fulfill his contractual obligations for service and/or facilities subject to regulation by the commission.
- g. For failure of the customer to permit the telephone utility reasonable access to its equipment.
- h. In cases involving abnormal and excessive use of toll service, service may be denied two (2) days after written notice is given to the customer, unless satisfactory arrangements for payment are made.
- i. For failure of the customer to provide the telephone utility with a deposit as authorized by 103-621(1).
- j. For failure of the customer to furnish permits, certificates, and/or right-of-ways, as necessary to obtain service, or in the event such permissions are withdrawn or terminated.
- k. Where there is probable cause to believe that there is illegal or willful misuse of telephone utility's service.
- l. No telephone utility shall be required to furnish its service or to continue its service to any applicant who, at the time of such application, is indebted under an undisputed bill to such telephone utility for telephone service previously furnished such applicant or furnished any other member of the applicant's household. However, for the purposes of this regulation, the telephone utility may not consider any indebtedness which was incurred by the applicant or any member of his household more than six (6) years prior to the time of application.
- m. For non-payment of that portion of the bill rendered by the telephone utility for telephone service billed for another telephone utility.
- n. Without notice, in the event of a PSP violation of a commission Order of which the PSP has been notified and has failed to correct the violation within the amount of time specified in such notification.

103-626. Insufficient Reasons for Denying Service.

The following shall not constitute cause for refusal of service to a present or prospective customer:

- a. Non-payment for services by a previous occupant of the premises to be served, unless such previous occupant shall benefit from such new service or unless the new occupant benefited from such old service.
- b. Failure to pay for merchandise purchased from the telephone utility.

- c. Failure to pay for any non-regulated equipment or services provided by the utility.
- d. Failure to pay for business service at a different location and a different telephone number shall not constitute sufficient cause for refusal of residential service or vice versa.

103-627. Rights of Access.

The authorized agents of the telephone utility shall have the right of access to the premises supplied with telephone service, at reasonable hours, for the purpose of maintenance, removal and inspection or for any other purpose which is proper and necessary in the conduct of the telephone utility's business.

103-628. Complaints.

A. Complaints concerning the charges, practices, facilities, or service of the telephone utility shall be investigated promptly and thoroughly by the telephone utility. The telephone utility shall keep such records of customer complaints as will enable it to review and analyze its procedures and actions.

B. The telephone utility, except in cases of high toll usage, and when given at least four hours notice shall not terminate service to a complainant until an answer to the complaint is conveyed to the ORS. A written or oral response is allowable for complaints that the telephone utility wishes to dispose of immediately. The use of an oral response does not preclude supplying the ORS with a written response to written complaints.

C. The ORS shall promptly and thoroughly investigate complaints concerning the charges, practices, facilities, or service of the utility. Each utility shall respond to the complaint conveyed to the utility by the ORS in a timely and thorough manner. This time period shall not exceed ten (10) days from the day the complaint is received by the utility, except that the ORS may give the company additional time to respond upon request and for good cause shown.

103-629. Tariffs, Rules and Regulations.

A copy of the telephone utility's tariffs as filed with the commission and provided to the ORS shall be available for inspection by the public.

103-630. System Which Telephone Utility Must Maintain.

Each telephone utility, unless specifically relieved in any case by the commission from such obligation, shall operate and maintain in safe, efficient and proper conditions, all of the facilities and instrumentalities used in connection with the furnishing of telephone service excluding customer provided equipment.

103-631. Directories.

Each utility is responsible for having the name, address, and telephone numbers of all of its customers listed in a telephone directory that is published at regular intervals, except public telephone and telephone service unlisted at customer's request.

A. The telephone utility shall list its customers with at least one provider of directory assistance services or with its own directory assistance operators to provide the requested telephone numbers based on the customer's name and address when such requests are made by communication users, except public telephones and telephone service unlisted at customer's request.

B. Upon issuance of the directory in which its customers' listings appear, each utility is responsible for distributing a copy of each directory to all customers served by that directory and a copy of each directory shall be furnished to the commission.

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C. The name of the telephone utility, an indication of the area included in the directory and the month and year of issuance shall appear on the front cover or the spine of the directory. The utility shall take appropriate measures to have information pertaining to emergency calls such as for the police and fire departments appear conspicuously in the front pages of the directory, and such information shall be provided without charge to the agency located within the utility's certificated area. Also, the utility shall take appropriate measures to have the address and telephone number of the Public Service Commission and the Office of Regulatory Staff appear in the front portion of the directory in which its customers' listings appear.

D. The utility shall take appropriate measures to have the directory in which its customers' listings appear contain instructions concerning placing of long distance calls, calls to repair and directory assistance services, and calls for the establishment and maintenance of service.

E. At least one directory assistance provider used by the utility or the utility's own directory assistance operators shall have access to records of all telephone numbers in the area for which they are responsible for furnishing directory assistance service except telephone numbers not published at customer's request.

F. Each telephone utility shall make every effort to list its customers with at least one directory assistance provider used by the utility or the utility's own directory assistance operators as necessary for the directory assistance operators to provide the requested telephone numbers based on customer names and service locations to minimize "not found" numbers where the address is different from the address normally associated with an exchange directory.

G. In the event of an error in the listed numbers of any customer, the telephone utility shall intercept all calls to the listed number for a reasonable period of time provided existing central office equipment will permit and the number is not in service. In such event of an error or omission in the name listing of a customer, such customer's correct name and telephone number shall be in the files of the directory assistance provider used by the utility, or the utility's own directory assistance operators. The correct number shall be furnished to the calling party either upon request or interception.

H. Whenever any customer's telephone number is changed after a directory is published, the telephone utility shall intercept all calls to the former number for a reasonable period of time, and give the calling party the new number provided existing central office equipment will permit, and the customer so desires.

I. When additions or changes in plant or changes to any other telephone utility operations necessitates changing telephone numbers to a group of customers, reasonable notice shall be given to all customers so affected even though the additions or changes may be coincident with a directory issue.

J. Approval must be obtained from the commission prior to a reduction in the size of print in the alphabetical section of the directory.

103-632. 900 & 900-Type Services Offerings

103-632.1. No Denial of Service

103-632.2. Safeguards for Children's Programs.

103-632.3. Preambles

103-632.4. Availability of 900 Access.

103-632.5

103-633. Procedures for Termination of Service

SUBARTICLE 4

ENGINEERING

103-640. Requirements for Good Engineering Practice.

The plant of each telephone utility shall be constructed, installed, maintained, and operated in accordance with accepted good engineering practices and regulations, included by reference as part of these rules as far as possible. Continuity of service, uniformity in quality of service furnished, and the safety of persons and property shall be maintained.

103-641. Acceptable Standards.

Unless otherwise specified by the commission, each telephone utility shall use the applicable provision in the publication listed below as standards of accepted good practices:

a. Latest edition of The National Electrical Safety Code.

103-642. Acceptable References.

Newton's Telecom Dictionary as published by CMP Books.

103-643. Adequacy of Service.

The capacity of the telephone utility's plant shall be sufficiently large to meet all reasonably expected requests for service. See R. 103-663(1). Where new construction is required, reasonable allowance will be made for construction and activation of new facilities.

103-644. Inspection of Plant.

A. Each telephone utility shall adopt a program of inspection of its plant in order to determine the necessity for replacement and repair. The frequency of various inspections shall be based on the telephone utility's experience and accepted good practice. Each utility shall keep sufficient records to give evidence of compliance with its inspection programs as set forth in R. 103-640 through -654 of these rules and regulations.

B. Each telephone utility shall maintain its plant, equipment, and other facilities at all times in a reasonably adequate and serviceable condition consistent with the commission's Rules and accepted industry standards.

C. The telephone equipment, apparatus and lines furnished by the telephone utility shall remain the property of the telephone utility, and no instrument, appliance or device of any kind not furnished by the telephone utility shall be attached to or in any way used in connection with such telephone equipment, apparatus, and lines, either directly or indirectly, by induction or otherwise, except in accordance with the guidelines contained in Part 68 of the Federal Communications Commission's Rules and Regulations. In the event any instrument, apparatus, or device of any kind other than that furnished by the telephone utility, or as excepted above, is attached to or connected with any part of its properties, the telephone utility shall have the right to remove such instrument, apparatus, or device in accordance with the applicable law.

103-645. Hazardous Locations.

Explosive Atmospheres and Other Hazardous Locations. No telephone utility shall be required to install or maintain any of its apparatus or equipment in explosive atmospheres, or at outdoor or other locations which, in its judgment, are not suitable for the location of its service and facilities.

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103-646. Emergency Operation.

A. Telephone utilities shall make reasonable provisions to meet emergencies resulting from failures of lighting or power services, unusual and prolonged increases in traffic, illness of personnel, or from fire, storm, or other acts of God and inform its employees as to procedures to be followed in the event of emergency in order to prevent or minimize interruption or impairment of telephone service.

B. Each central office shall contain as a minimum two hours of battery reserve. All central offices shall make adequate provisions for emergency power. In offices without installed emergency power facilities, there shall be a mobile power unit available which can be delivered and connected within the period of the battery reserve and can maintain the office for an extended period of time.

C. In exchanges exceeding 5,000 lines, a permanent auxiliary power unit shall be installed.

SUBARTICLE 5

INSPECTION AND TESTS

103-650. Telephone Utility Inspection and Test.

A. Each telephone utility shall adopt a program of periodic tests, inspections, and preventive maintenance aimed at achieving efficient operation of its system and the rendition of safe, adequate and continuous service.

B. Each telephone utility shall maintain or have access to test facilities enabling it to determine the operating and transmission capabilities of all equipment and facilities provided by the telephone utility both for routine maintenance and for trouble location. The actual transmission performance of each telephone network shall be monitored in order to determine if the established objectives and operating requirements are met. This monitoring function shall consist of circuit order tests prior to placing trunks in service, routine periodic trunk tests, periodic noise tests of a sample of customer loops in each exchange, and special transmission surveys of the telephone network.

103-651. ORS Inspection and Test.

When inspections, audits, or examinations are conducted by the ORS, its staff, or its representatives, to ensure or determine if the provision of these rules herein contained are being adhered to, each telephone utility shall assist with such test as requested provided such request is in accordance with all legal requirements and sanctions.

103-652. Testing Facilities.

A. Each telephone utility shall, unless specifically excused by the commission, provide such instruments and other equipment and facilities as may be necessary to make the tests required of it by these rules or other orders of the commission or as requested by the ORS. The apparatus and equipment so provided shall be available at all times for inspection by any member or authorized representative of the ORS.

B. Each telephone utility shall make such tests as are prescribed under these rules with such frequency and in such manner and at such places as is herewith provided, as requested by the ORS, or as may be approved or ordered by the commission.

103-653. Trouble Reports.

A. Each telephone utility shall provide for the receipt of customer trouble reports at all hours and make a full and prompt investigation of all trouble reports. Each telephone utility shall maintain an accurate record of trouble reports made by its customers. This record shall include appropriate identification of the customer or service affected, the time, date, and nature of the report, the action taken to clear trouble or satisfy the trouble, and the date and time of trouble clearance or other disposition. This record shall be available to the ORS or its authorized representatives upon request at any time within the period prescribed for retention of such records.

B. Provisions shall be made to clear all trouble of any emergency nature at all hours, consistent with the needs of customers and the personal safety of telephone utility personnel.

C. Provisions shall be made to normally clear all other out-of-service troubles not requiring unusual repair, such as cable failures, within 24 hours of the report received by the telephone utility excluding Sundays and holidays unless the customer agrees to another arrangement.

D. Provisions shall be made to keep all commitments to customers. If unusual repairs are required, or other factors preclude clearing of reported trouble promptly, reasonable efforts shall be made to notify affected customers.

103-654. Maintenance of Plant and Equipment.

SUBARTICLE 6

STANDARDS AND QUALITY OF SERVICE

103-660. Quality of Service.

103-661. Interruptions of Service.

A. Each telephone utility shall make reasonable efforts to avoid interruptions of service, but when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety.

B. Planned interruptions shall be made at a time that will not cause unreasonable inconvenience to customers and shall be preceded by adequate notice to those who will be affected.

103-662. Restrictions on Use of Service.

Each telephone utility may impose reasonable restrictions on the use of telephone service during periods of excessive demand or other difficulty which jeopardizes the quality of service to any group of customers.

103.663. Service Standards.

103-663.1. Availability of Service.

103-663.2. Equipment Requirements.

A. The central office and interoffice trunk equipment shall be maintained so as to meet the following standards during an average business day (8:00 AM to 5:00 PM):

Failure rate on intraoffice calls--1.5%

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Failure rate on interoffice calls--3%

The failure rate for interoffice calls applies to EAS and multioffice trunking calls but not to toll calls.

B. The central office and interoffice trunk standards are the objectives to be used by the ORS staff when testing. The telephone utilities are not required to perform tests or maintain records of these items.

103-663.3. Subscriber Loop-Transmission Objectives.

The following standards are objectives to be used by the ORS staff during testing at the subscriber's station protector. Acceptable measurements are:

DC Line Current: greater than 20 mA

Circuit Loss: less than 8.5 db

Circuit Noise: less than 20 dBrnC

Power Influence: less than 90 dBrnC

Balance greater than 60 dB

(Where Balance (dB) = Power Influence - Circuit Noise)

103-663.4. Dialtone

103.663.5. Answering Time.

103-663.6. Customer Trouble Reports.

A. Service by each telephone utility shall be such that the number of customer trouble reports per 100 total access lines in service per month shall not exceed the following:

EXCHANGE/REPORTING GROUP

SIZE OBJECTIVE

OVER 7,500 ACCESS LINES 5.0

UNDER 7,500 ACCESS LINES 7.0

Unusual situations caused by storms, unavoidable casualties or other conditions causing an excess number of reports should be explained in the trouble report.

B. A customer trouble report is any oral or written notice received by the telephone utility (other than problems detected by the telephone utility's internal diagnostics) indicating difficulty or dissatisfaction with the performance, physical condition, location or appearance of the utility's regulated telephone plant or equipment.

103-663.7. Customer Out of Service Trouble Clearing Time.

Provisions shall be made to normally clear all out of service troubles within twenty-four hours of the reported time to the telephone utility, excluding weekends and holidays, unless the customer agrees to another arrangement. The out of service trouble clearing time objectives for telephone utilities is 85% within 24 hours.

SUBARTICLE 7

SAFETY

103-670. Acceptable Standards.

As criteria of accepted good safety practice the commission will use the applicable provisions of the standard listed in R.103-641.

103-671. Protective Measures.

Each telephone utility shall exercise reasonable care to reduce the hazards to which its employees, its customers and the general public may be subjected.

103-672. Safety Program.

Each telephone utility shall adopt and execute a safety program fitted to the size and type of its operation.

SUBARTICLE 8

TELECOMMUNICATION RELAY SERVICE ADVISORY COMMITTEE

103-680. Role of the Advisory Committee.

The Telecommunication Relay Service Advisory Committee shall monitor the establishment, administration, and promotion of the telecommunications relay service, and advise the commission on ways the service may be enhanced to better meet the communication needs of the hearing and speech impaired.

103-681. Committee Name.

103-682. Composition of the TRS Advisory Committee.

103-683. Meetings.

103-684. Commission Approval.

1. The commission anticipates that the TRS Advisory Committee shall make all decisions which are necessary to perform its functions as specified in R. 103-680. However, the commission retains its right to review and approve the decisions of the TRS Advisory Committee.

2. The commission Staff or the ORS Staff, TRS Advisory Committee members, or any other committee members, may require that committee recommendations be approved by the commission.

3. The commission must approve any and all proposed expenditures from the operating fund.

Fiscal Impact Statement: There will be no increased costs to the State or its political subdivisions.

Statement of Rationale: The purpose of the revisions to 26 S.C. Code Ann. Regs. 103-600, *et. seq.* is to conform the Public Service Commission's telecommunications utilities regulations with Act No. 175 of 2004. There was no scientific or technical basis relied upon in the development of these regulations.