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JAMES M. MURPHY

ARIZONA  
CORPORATION COMMISSION

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*Rules of Practice  
and Procedure*  
(Revised)



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**ARIZONA CORPORATION COMMISSION**

**GENERAL ORDER NO. 255**

The Arizona Corporation Commission has considered the proposed revisions of its rules of practice and procedure. A public hearing was held in the matter on the 29th day of February, 1952. The Commission by virtue of the powers in it vested under the constitution and the laws of the State of Arizona does hereby promulgate, as a part of this order, the attached revised rules of practice and procedure, and as adopted herewith they shall supersede as of May 1, 1952, all others heretofore promulgated, approved and adopted by this Commission.

**BY ORDER OF THE ARIZONA CORPORATION  
COMMISSION.**

IN WITNESS WHEREOF, I, MEL D. MICHAEL, Secretary of the Arizona Corporation Commission, have hereunto set my hand and affixed the official seal of the Arizona Corporation Commission, at the Capitol, in the City of Phoenix, this 17th day of March, 1952.

MEL D. MICHAEL,

(Seal)

Secretary.

/s/ W. T. Wright  
Chairman

/s/ Mit Simms  
Commissioner

/s/ William T. Brooks  
Commissioner

**RULES OF PRACTICE  
AND PROCEDURE**  
**Before The**  
**ARIZONA CORPORATION COMMISSION**

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**ARTICLE I.**

**Sessions of the Commission**

1. Sessions of the Commission shall be held by it at such times and places as the business of the Commission shall require and after such notice as is required by law or determined by the Commission.

2. The Commission, unless prohibited by law, may designate any qualified, authorized officer to take testimony and evidence at any hearing on any application or other matter pending before the Commission and submit the same to the Commission. A complete record of all hearings held by the Commission or by any of its employees shall be made, including a transcript of the testimony offered by any witness at such hearing.

**ARTICLE II.**

**Appearances**

All persons appearing before the Commission in any proceeding shall conform to the standards of ethical conduct required of practitioners before the Supreme Court of the State of Arizona. Failure on the part of any person to conform to such standards shall be grounds for declining to permit such person to thereafter appear before the Commission in any proceeding or for any purpose whatsoever.

**ARTICLE III.**

**Parties**

1. Parties to proceedings before the Commission shall be designated "complainants," "defend-

ants," "intervenor," "protestants," "respondents," "applicants," or "petitioners," according to the nature of the proceeding and the relation of the parties thereto.

(a) Any person complaining to the Commission of anything done or omitted to be done in violation of any law, the enforcement of which is vested in the Commission, or of any rule or order of the Commission, shall in any proceeding in relation thereto, be designated "complainant."

(b) Any person against whom a complaint is made by any complainant, in any proceeding on such complaint, shall be designated "defendant."

(c) Any person having an interest in any proceeding before the Commission appearing after the commencement of such proceeding and permitted to intervene as hereinafter provided, shall be designated in any such proceeding "intervenor."

(d) Any person appearing in any proceeding in opposition to an application, or in any investigation or suspension proceeding, or in opposition to any schedule, rate or tariff offered for filing or under suspension, shall be designated "protestant."

(e) Any person in any proceeding initiated by the Commission on its own motion for the violation of any law, the enforcement of which is vested in the Commission, or of any rule or regulation of the Commission, and any person who may have any schedule, rate or tariff suspended by the Commission, shall be designated "respondent."

(f) Any person seeking any certificate, permit or other authority authorized by law to be granted by the Commission or which may be granted under its rules and regulations, shall be designated "applicant."

(g) Any person seeking any matter or thing or relief other than any certificate, permit or other authority authorized by law to be granted by the

Commission or which may be granted under its rules and regulations, shall be designated "petitioner."

2. Two or more complainants may join in one complaint if their respective complaints are against the same defendant or defendants and involve substantially the same matter or thing and a like state of facts.

3. In any proceeding where complaint is made in respect to through transportation, all carriers participating therein shall be made defendants.

4. If complaint be made of the rates, fares, charges, regulations or practices of more than one carrier, all carriers against whom an order is sought shall be made defendants.

5. If complaint be made of any classification or any provision thereof, all persons making or publishing such classification shall be made defendants.

6. The receiver or trustee of any person subject to the orders of this Commission shall be made a party in any proceeding affecting such person and shall be designated as herein provided.

#### ARTICLE IV.

##### Intervention

1. Any person entitled by law or under the rules and regulations of the Commission to complain to the Commission having an interest in any matter or proceeding pending before the Commission may petition for leave to intervene. The petition for leave to intervene shall recite the grounds of the proposed intervention, the interest of the petitioner in the proceedings, and if affirmative relief is sought, shall recite the grounds upon which such relief is sought and must be subscribed and verified in the same manner as a formal complaint.

2. Upon the filing of a petition in intervention, the petitioner shall serve all parties to the

proceeding with a copy of such petition and shall file with the Commission, in addition to the original, one copy of such petition. When any petition in intervention is not filed prior to but is tendered at the hearing, sufficient copies shall be provided for distribution to all parties appearing at such hearing, and if leave be granted at the hearing for such intervention, the original and one copy of such petition shall be filed with the Commission.

3. No petition for leave to intervene shall be granted where by so doing the issues theretofore presented will be unduly broadened, except upon leave of the Commission first had and received.

4. Appearances of interested parties may be entered in investigation, suspension and rate proceedings, in general investigation initiated by the Commission and in proceedings for the issuance of certificates of convenience and necessity or for any permit or for the abandonment by any carrier of its operation, or a part thereof, without applying for or receiving leave to intervene. Persons so appearing, upon such appearance, shall be and become parties to such proceedings.

## ARTICLE V.

### Complaints

Complaints may be made by any person against any other person whomsoever for any act or omission committed or omitted to be done, contrary to law, or the rules and regulations of this Commission.

(1) Complaints shall be in writing and shall contain the essential elements of a complaint, including the name and address of the complainant, the name of the person against whom complaint is made, a complete statement of the grounds for said complaint, indicating the date or dates of the commission or omission of the acts or things complained of, and the nature of the relief sought by the complainant. The complaint shall be signed

by the complainant, or by one of the complainants if there be more than one, or by an officer of the complainant if the complainant be a corporation, association or other organization, or for the complainant by an agent or attorney duly authorized to practice before the Commission. Said complaint shall be verified under oath by the person signing the same, and if such verification is made by any person other than the complainant or an officer thereof, the reason for its verification by such other person shall be stated.

(2) The original and three copies of every complaint shall be filed with the Commission for its use, in addition to one copy thereof for service upon each person against whom complaint is made.

(3) Upon the filing of any complaint with the Commission as herein provided, the Commission shall cause a copy thereof to be served upon the person against whom complaint is made, by registered mail, directed to the address of such person appearing from the records of the Commission or said complaint, together with its order directing said person to be and appear before the Commission on a day certain to show cause why the relief prayed for by said complainant should not be granted, or directing said person to make answer as provided in Article VI.

(4) In proceedings initiated by the Commission against any person for the violation of law or of its rules or regulations, the Commission shall serve upon said person a complaint reciting the matters and things complained of and shall also direct that said person be and appear before the Commission on a day certain, then and there to make answer to said matters and things complained of.

(5) Every complaint shall be so drawn as to fully and completely advise the parties against whom said complaint is directed, and the Commission, wherein the law or the rules and regu-

lations of the Commission have been violated, and each violation thereof shall be separately stated in said complaint. In any complaint involving any rate, fare, charge, classification, regulation or practice prescribed by any tariff, specific reference shall be made to the tariff in which the same appear.

(6) Supplemental complaints may be filed in any proceeding before the Commission against the parties named in the original complaint, setting forth any matter complained of arising subsequent to the filing of the original complaint, upon leave of the Commission and subject to the rules and requirements as in the case of the filing and service of original complaints.

## ARTICLE VI.

### Answers

1. Answers to complaints, when required by this Commission or these rules, must be filed within twenty days after the date on which the complaint is served, unless otherwise ordered by the Commission.

2. All answers shall be full and complete and drawn in such manner as to advise the parties and the Commission of the nature of the defense and shall admit or deny specifically and in detail each allegation of the pleading to which such answer is directed.

3. An answer to a petition in intervention or to an amended complaint filed and served upon leave granted need not be separately made, unless the defendant so elects and the answer to the formal complaint shall be deemed an answer to the petition in intervention.

4. If a defendant satisfies the matters and things complained of in a formal complaint, either before or after answering, the Commission may dismiss the complaint.

## ARTICLE VII.

### Service of Pleadings

1. Complaints and, upon leave granted, petitions in intervention, supplemental complaints and amended complaints, shall be served by the Commission by registered mail. Copies of each must be furnished in sufficient numbers to permit the serving thereof upon such parties as shall be determined by the Commission.

2. Except as otherwise provided in Paragraph 1 hereof, answers, petitions, motions and all other papers, except depositions, in proceedings pending before the Commission upon its formal docket, must, when filed or tendered to the Commission, show service thereof, upon all parties to the proceeding. Such service shall be made by delivering in person or by mailing, properly addressed with postage prepaid, one copy of the instrument served, to each party to the proceeding.

3. When any party has appeared by an attorney or agent, service upon such attorney or agent, shall be deemed service upon such party.

## ARTICLE VIII.

### Amendments of Pleadings

1. Amendments of any pleading may be made within not less than five days before hearing and thereafter at the discretion of the Commission.

2. Whenever by these rules the principal or original pleading is required to be subscribed and verified, an amendment thereto shall be similarly subscribed and verified.

## ARTICLE IX.

### Extensions of Time

For good cause shown, continuances and extensions of time will be granted by the Commission in its discretion but only upon not less than three days notice of such application to all other parties to the proceeding.

## ARTICLE X.

### Stipulations

Parties to any proceeding may by stipulation in writing filed with the Commission, or otherwise made a part of the record therein, agree upon any facts involved in the proceeding and when so agreed upon and approved by the Commission said facts shall be binding upon all parties to the proceeding.

## ARTICLE XI.

### Hearings

1. When issue is joined upon complaint by answer, the Commission shall assign a time and place for hearing.

2. At hearings on complaints, the complainant shall open and close. At hearings upon applications for any certificates or permit, the authority for the granting of which is vested in the Commission, or for relief from any provision of law or the rules and regulations of the Commission, the applicant shall open and close. The order of presentation herein prescribed shall be followed except as the Commission may otherwise prescribe. At hearings of several proceedings upon a consolidated record, the presiding Commissioner shall designate the procedure to be followed by the parties. Intervenors shall follow the party in whose behalf the intervention is made. In all cases where the intervention is not in support of either original party, the presiding Commissioner shall designate at what stage of the proceeding such intervenor shall be heard.

## ARTICLE XII.

### Depositions

The rules for the Superior Court established by the Supreme Court are hereby adopted as the rules for the taking, notice and filing of depositions before this Commission.

## ARTICLE XIII.

### Witnesses and Subpoenas

1. Subpoenas requiring the attendance of witnesses from any place in the State of Arizona at any designated place of hearing may be issued by any member of the Commission.

2. Subpoenas for the productions of books, papers or documents, unless directed by the Commission upon its own motion, shall issue only upon application in writing. Applications to compel witnesses who are not parties to the proceedings, or agents of such parties, to produce documentary evidence must specify, as nearly as may be, the books, papers, or documents desired. Applications to compel a party to the proceedings to produce books, papers or documents should set forth the books, papers or documents sought, with a declaration that they will be of service in the determination of the proceeding.

3. Witnesses who are summoned are entitled to the same fees as are paid for like service in the courts of the State of Arizona, such fees to be paid by the party at whose instance the witness is called or subpoenaed.

4. If service of subpoena is made by an officer of the state or his deputy, such service shall be evidenced by his return thereon. In case of failure to make service the reasons for the failure shall be stated on the original subpoena. In making service the original subpoena shall be exhibited to the person served, shall be read to him if he is unable to read, and a copy thereof shall be left with him. The original subpoena, bearing or accompanied by the required return, shall be returned forthwith to the Commission.

## ARTICLE XIV.

### Documentary Evidence

1. When relevant and material matter offered in evidence by any party is embraced in a book,

papers, or document containing other matter, not material or relevant, the party must plainly designate the matter so offered. If the other matter is in such volume as would unnecessarily encumber the record, such book, paper or document will not be received in evidence but may be marked for identification and, if properly authenticated, the relevant and material matter may be read into the record, or if the presiding commissioner so directs, a true copy of such matter, in proper form, shall be received as an exhibit, and like copies delivered by the party offering the same to opposing parties or their attorneys or agents appearing at the hearing, who shall be afforded opportunity to examine the book, paper or document, and to offer in evidence in like manner other portions thereof, if found to be material and relevant.

2. In case any matter contained in a report or other document, not a tariff schedule, on file with the Commission is offered in evidence, such report or other document need not be produced, or marked for identification, but in other respects the provisions of the foregoing subdivision 1 of this rule shall apply.

3. In case any portion of the record before the Commission in any proceeding other than the one on hearing is offered in evidence a true copy of such portion shall be presented for the record in the form of an exhibit unless—

(a) The party offering the same agrees to supply such copy later at his own expense, if and when required by the Commission; and

(b) The portion is specified with particularity in such manner as to be readily identified; and

(c) The parties represented at the hearing stipulate upon the record that such portion may be incorporated by reference, and that any other portion offered by any other party may be incorporated by like reference subject to (a) and (b); and

(d) The presiding commissioner directs such incorporation.

Any portion so offered, whether in the form of an exhibit or by reference, shall be subject to objection.

4. In case any matter contained in a tariff schedule on file with the Commission is offered in evidence, such tariff schedule need not be produced or marked for identification, but the matter so offered shall be specified with particularity in such a manner as to be readily identified and may be received in evidence subject to check by reference to the original tariff schedules so on file.

5. All exhibits showing rates, fares, charges or other tariff provisions shall, by appropriate Commission number reference, indicate the tariff authority therefor, and if distances are shown must also show the authority therefor and by lines and junction points, the routes over which the distances are computed; except that the routes over which the distances are computed need not be shown when such distances are specifically published in a tariff schedule lawfully on file with the Commission, or are definitely ascertainable from a tariff schedule on file with the Commission showing rates prescribed by the Commission and based on short line distances, provided the exhibit makes specific reference to such tariff schedule as provided by this rule.

6. When exhibits of a documentary character are to be offered in evidence, copies shall be furnished to opposing counsel, unless the presiding commissioner otherwise directs. Whenever practicable, the parties should interchange copies of exhibits before or at the commencement of the hearing.

7. When agreed upon by the parties at or after the hearing, the presiding commissioner, if he deems advisable, may receive specified documentary evidence as a part of the record within

a time to be fixed by him, but which shall expire not less than 10 days before the date fixed for filing and serving briefs.

8. In valuation cases exhibits offered in evidence at a hearing shall not be made a part of the record until after opposing counsel shall have been afforded a full and fair opportunity to test their admissibility, and not then unless and except to the extent that after such test they are found to be relevant and material evidence and to have a bearing upon one or more of the issues joined in the case in which they are so offered.

9. Unless the presiding commissioner shall otherwise direct, two copies of each exhibit of a documentary character shall be furnished for the use of the Commission, except that in valuation cases four copies of such exhibits, when so offered in evidence by a protestant or intervenor, must be so furnished.

## ARTICLE XV.

### Briefs and Oral Arguments

1. Briefs must comply with the requirements of Section 2 of this Article. The date of each brief must appear on its front cover or title page. Each brief should contain an abstract of the evidence relied upon by the party filing it, preferably assembled by subjects, with reference to the pages of the record or exhibit where the evidence appears. It shall include requests for such specific findings as the party thinks the Commission should make.

2. Exhibits shall not be reproduced in the brief, but may, if desired, be reproduced in an appendix to the brief. Analyses of such exhibits should be included in the abstract of evidence under the subjects to which they pertain. The abstract of evidence shall follow the statement of the case and precede the argument. Every brief of more than 20 pages shall contain on its front

flyleaves a subject index with page references, the subject index to be supplemented by a list of all cases cited, alphabetically arranged, with references to the pages where the citations appear.

3. In proceedings upon complaint alleging misrouting or undue prejudice to or preference of any locality as contrasted with another locality or otherwise attacking rate relations, the complainant shall insert in his brief opposite the statement of the case or in an appendix a map or chart adequately showing the situation involved.

4. Briefs not filed with the Commission and served on or before the dates fixed therefor will not be received except by special permission of the Commission. All briefs must be accompanied by notice showing service upon all other parties or their attorneys or agents who appeared at the hearing or on brief, and four copies of each brief shall be furnished for the use of the Commission. Applications for extension of time in which to file briefs shall be by petition, in writing, stating the facts on which the application rests, which must be filed with the Commission at least five days before the time fixed for filing such briefs.

5. If oral argument before the Commission is desired, the presiding commissioner shall be so notified at or before the hearing and may arrange to hear the argument within such limits of time as he may determine. The making of such argument shall not preclude oral argument before the Commission, after the filing of briefs and application therefor may be made as hereinafter provided.

6. Only one initial brief shall be filed by each party. The presiding commissioner shall fix for all parties the same time within which to file their respective briefs.

7. At the close of the testimony in each proceeding the presiding commissioner shall fix the time for filing and service of the respective briefs.

8. The application of any party for oral argument before the Commission shall be made at the hearing or at the time of the filing of the brief of said party.

9. Applications for oral argument shall be granted or denied in the discretion of the Commission.

## ARTICLE XVI.

### **Applications For Further Hearings, Rehearings, Rearguments, Reconsideration or Modification of Orders.**

1. An application for further hearing in a proceeding before final submission, for reopening a proceeding after final submission, or for rehearing, reargument, or reconsideration after decisions, must be made by petition, stating specifically the grounds relied upon, filed with the Commission and served by the petitioner upon all parties or attorneys or agents who appeared at the hearing, or oral argument, or on brief.

2. If the application be for further hearing before final submission, or for reopening the proceeding to take further evidence, the nature and purpose of the evidence to be adduced must be briefly stated and it must appear not to be merely cumulative.

3. If the application be for rehearing, reargument, or reconsideration, the matters claimed to have been erroneously decided must be specified and the alleged errors briefly stated. If thereby any order of the Commission is sought to be vacated, reversed, or modified by reason of matters which have arisen since the hearing, or of consequences which would result from compliance therewith, the matters relied upon by the petitioner must be fully set forth in the petition. If vacation, reversal, or modification of any order is sought for the purpose of permitting the publication and filing of rates, fares, charges, classifications, regu-

lations, or practices other than those required by the order, the application shall show clearly and with such particularity as is practicable the reasons or conditions relied upon as a basis for the application, and the changes proposed.

4. Applications for modification of orders which seek only change in the date when they shall take effect, or in the period of notice or other period or date thereby prescribed, shall be made by petition seasonably filed and served in like manner as other applications under this rule, except that, in case of unforeseen emergency satisfactorily shown by the applicant, such relief may be sought informally, by telegram or otherwise, upon notice thereof to all parties or attorneys or agents who appeared as aforesaid.

5. All such petitions shall be filed within 20 days from the date of the order of the Commission.

#### ARTICLE XVII.

##### **Number of Copies of Petitions, Motions, Etc. and Replies Thereto.**

1. Except as otherwise provided in these rules, four copies of each petition, motion, application, notice or other paper in proceedings pending before the Commission on its formal docket filed and served as provided.

2. Within ten days after service of any papers specified in paragraph 1 of this rule, any adverse party may file and serve a reply thereto, furnishing a like number of copies for the use of the Commission. A reply to a reply shall not be permitted.

#### ARTICLE XVIII.

##### **Transcript of Testimony**

Upon the payment of twenty cents (20c) per folio for the first copy, and ten cents (10c) per folio for each carbon copy, if ordered at the same time and by the same person as the first copy, the reporter shall furnish to any person a type-

written transcript of all or any part of the proceedings so reported by him, and upon request, certify that such transcript is a correct and complete statement of such proceedings.

## ARTICLE XIX.

### **Compliance With Orders**

When an order has been issued the defendants or respondents named therein shall promptly notify the Commission on or before the date upon which such order becomes effective whether or not compliance has been made therewith.

## ARTICLE XX.

### **Suspension Proceedings**

1. Suspensions of tariff schedules shall not be considered unless protest and application therefor is made in writing or by telegram at least three days before the effective date named in the schedule. Applications for suspensions must indicate the schedule affected by its Commission number and give specific reference to the items against which protest is made, together with a statement of the grounds thereof. If such application is made by telegram, it must be confirmed and followed by application in writing and shall succinctly state the substance of the matters to be set forth in the written application. Four copies of each written application shall be furnished to the Commission.

2. Petitions for suspension or modification of the Commission's findings upon the application or complaint concerning the reasonableness or lawfulness of any through routes, joint rates, differentials, and divisions, ordered by the Commission, and seeking a hearing thereon, shall conform to the general rules governing petitions and complaints and shall be served on such parties as the Commission may designate.

## ARTICLE XXI.

### **Computation of Time-Holidays**

When the time prescribed by these rules for doing any act expires on a legal holiday, such time shall extend to and include the next succeeding day that is not a legal holiday.

## ARTICLE XXII.

### **Application of Rules of Civil Procedure of the Superior Courts of Arizona**

When not in conflict with law, these rules of practice and procedure shall govern in all cases before the Corporation Commission. In all cases in which procedure is set forth neither by law nor by these rules, the rules of civil procedure for the Superior Court of Arizona as established by the Supreme Court of the State of Arizona shall govern, except as may be otherwise directed by the Commission.

## ARTICLE XXIII.

### **Office and Address of the Commission**

1. Pleadings and other papers required to be filed with the Commission may be transmitted by mail or express, or otherwise delivered, but must be received for filing at its office in Phoenix, Arizona, within the time limit, if any, for such filing.

2. All communications to the Commission must be addressed to Phoenix, Arizona, unless otherwise specifically directed.