

DEPARTMENT OF BUDGET AND FINANCE

Repeal of State of Hawaii Public Utilities Commission
Rules of Practice and Procedure before the
Public Utilities Commission, General Order No. 1 and
Adoption of Chapter 6-61, Hawaii Administrative Rules

March 13, 1992

SUMMARY

1. State of Hawaii Public Utilities Commission Rules of Practice and Procedure before the Public Utilities Commission, General Order No. 1 is repealed.
2. Chapter 6-61, Hawaii Administrative Rules, entitled "Rules of Practice and Procedure before the Public Utilities Commission," is adopted.

DEPARTMENT OF BUDGET AND FINANCE

State of Hawaii Public Utilities Commission Rules of Practice and Procedure, General

Order No. 1, REPEALED []

HAWAII ADMINISTRATIVE RULES

TITLE 6

DEPARTMENT OF BUDGET AND FINANCE

CHAPTER 61

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Historical note. This chapter is based substantially upon the Rules of Practice and Procedure before the Public Utilities Commission of the State of Hawaii, General Order No. 1. [Eff 2/2/78; R]

SUBCHAPTER 1

GENERAL PROVISIONS

'6-61-1 Purpose. These rules govern practice and procedure before the public utilities commission, State of Hawaii. They shall be liberally construed to secure the just, speedy, and inexpensive determination of every proceeding. Whenever this chapter is silent on a

matter, the commission or hearings officer may refer to the Hawaii Rules of Civil Procedure for guidance.

[Eff] (Auth: HRS '91-2, 269-6, 271 9, 271G 7) (Imp: HRS '91-2)

'6-61-2 Definitions. As used in this chapter, except as otherwise required by context:

"Administrative director" means the person appointed by the chairperson to be the administrative head of the commission staff.

"Agency hearing" or "hearing" has the same meaning as in section 91-1(6), HRS.

"Applicant" or "petitioner" means a person who files an application seeking permission or authorization which the commission may grant under statutory or other authority delegated to it.

"Chairperson" means the commissioner designated by the governor to be chairperson of the commission.

"Chief clerk" or "deputy clerk" means the person or persons appointed to receive, record, and preserve the records of the commission.

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"Commission" means the public utilities commission of the State.

"Commissioner" means a member of the public utilities commission.

"Consumer advocate" means the director of the department of commerce and consumer affairs.

"Contested case" has the same meaning as in section 91-1(5), HRS.

"General rate increase" means a partial or flat increase in the general level of the rates or charges for revenue purposes or to increase the rate of return. The establishment of a rate or charge for a new service, an adjustment of or a change in a particular rate or charges for the purpose of eliminating inequities, preferences, or discriminations, or increases in rates or charges resulting from an automatic rate adjustment clause are not general rate increases.

"Government records" means the same as in section 92F-3, HRS.

"Hearings officer" means a person appointed as such pursuant to section 269-6, HRS.

"HRS" means the Hawaii Revised Statutes.

"Intervenor" means a person who moves to intervene in a contested case and is admitted as a party.

"Meeting" has the same meaning as in section 92 2(3), HRS.

"Motor carrier" has the same meaning as in section 271 4(13), HRS.

"Movant" means a party that moves; a party that makes a motion before this commission; a party that applies for a ruling or an order from this commission.

"Participant" means a person allowed to participate in a proceeding pursuant to section 6 61 56.

"Party" has the same meaning as in section 91 1(3), HRS. Whenever the word "party" is used in this chapter, it also includes a participant where the context requires.

"Person" means and includes individuals, partnerships, corporations, associations, joint stock

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companies, public trusts, organized groups of persons, whether incorporated or not, receivers or trustees of the foregoing, municipalities, including cities, counties, or other political subdivisions of the State, or any agency, authority or instrumentality of the State or of any one or more of the foregoing.

"Presiding officer" means any member of the commission or any person appointed as a hearings officer by the chairperson. Unless otherwise designated, the chairperson is the presiding officer.

"Proceeding" means any matter brought before the commission or initiated by the commission which it has jurisdiction to entertain and dispose.

"Public hearing" means a public hearing described in section 269-16, HRS, or section 91-3, HRS, or a proceeding initiated by the commission, either on its own motion or as required by law, for the purpose of obtaining data, comments, opinions, or statements.

"Public utility" means the same as in section 269 1, HRS.

"Respondent" means a person subject to any statute administered by the commission or any order or rule issued or promulgated thereunder against whom a complaint is filed or to whom an order or notice is issued by the commission instituting a proceeding or investigation.

"State" means the State of Hawaii.

"Tariff change" means any change or addition to a public utility, motor carrier, or water carrier tariff on file with the commission.

"Water carrier" or "common carrier by water" has the same meaning as in section 271G-5(7), HRS. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G 7) (Imp: HRS "91-2, 269-1, 271-4, 271G 5)

'6-61-3 The commission. (a) The office of the commission is at 465 South King Street, Honolulu, Hawaii 96813. All communications to the commission

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shall be sent to this address unless otherwise directed.

(b) The office of the commission shall be open from 7:45 a.m. to 4:30 p.m. daily except Saturdays, Sundays, and legal holidays, unless otherwise provided by statute or executive order.

(c) Official copies of decisions and orders and other commission actions shall be issued under the signature of the chairperson, chief clerk, or other person authorized by the commission. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G 7) (Imp: HRS " 91-2, 269-3, 271-9, 271G 7)

'6-61-4 Meetings. (a) The commission may meet and exercise its powers in any part of the State. Except as provided by law, all of its meetings are open to the public. The parliamentary procedure to be utilized by the commission in the conduct of its own meetings, shall be based on the current edition of "Roberts Rules of Order Newly Revised," Scott, Foresman and Company.

(b) Meetings, notice of meetings, and minutes of meetings are governed by part I of chapter 92, HRS.

(c) The commission may remove any person who wilfully disrupts a meeting. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "92-3, 92-4, 269-6, 271-9, 271G-7)

'6-61-5 Requests for government records. All requests for government records or for copies of government records or to inspect the government records maintained by the commission shall be directed to the

administrative director, either in writing or in person. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 92F-11, 269 6, 271-9, 271G-7)

'6-61-6 Government records, inspection, cost of copies. The inspection of government records maintained by the commission is governed by part II, chapter 92F, HRS. Copying of government records maintained by the commission and the costs and fees therefor are governed by section 92-21, HRS. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 92-21, 92F-18, 269 6, 271-9, 271G-7)

'6-61-7 Custody of records. The chief clerk shall have custody of the commission's official records and shall be responsible for the maintenance and custody of the docket files, including transcripts and exhibits, minutes of all commission meetings and decisions, orders, opinions, rules and approved forms. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 269-3, 271-9, 271G 7)

'6-61-8 Retention of documents by the commission. Except as provided by law, all documents filed with or presented to the commission shall remain in the files of the commission. The chairperson may permit the withdrawal of original documents upon submission of copies to replace the originals. The chief clerk shall obtain a receipt indicating withdrawal of any original documents. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 271 31, 271G 23)

"6-61-9 to 11 (Reserved)

'6-61-12

SUBCHAPTER 2

GENERAL REQUIREMENTS IN PROCEEDINGS

BEFORE THE COMMISSION

'6-61-12 Appearance before the commission. (a) Any party to a proceeding before the commission may appear in person or may be represented by a partner or by an officer or authorized employee of a corporation, trust, or association.

(b) In all proceedings wherein pleadings are filed and a formal hearing is held involving the taking of testimony and formulation of a record, subject to review by the courts, except for those persons specified in subsection (a), no person may appear in a representative capacity other than the following:

(1) Attorneys-at-law in good standing and entitled to practice before the Hawaii Supreme Court;

(2) At the discretion of the commission, an attorney who is not authorized to practice law in the State but who associates with a member in good standing of the bar of the State in the presentation of a specific proceeding;

(3) A law student intern practicing law pursuant to Rule 7 of the Rules of the Supreme Court of the State; or

(4) Any attorney who is a member in good standing of the bar of any state and who is employed by the United States or one of its agencies in a professional capacity, and who, while being so employed may have occasion to appear before this commission on behalf of the United States, during the period of that employment. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-13, 271-31, 271G-23, 605-14)

'6-61-15

'6-61-13 Code of ethics. (a) Any person who signs a pleading, brief, or document, enters an appearance at a hearing, or transacts business with the commission, by that act represents the following:

- (1) That the person is lawfully authorized and qualified to so act;
- (2) That the person will comply with the laws of this State and the several counties, and the rules of this commission; and
- (3) That the person will maintain the respect due to the commission and will not deceive or knowingly present any false statements of fact or law to the commission.

(b) The commission may at any time require any person appearing before the commission in a representative capacity to furnish proof of authorization and qualification to act in that capacity. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 269-6, 271 31, 271G 23)

'6-61-14 Former employees. Any former employee of the commission, as the term "employee" is defined in section 84-3, HRS, shall comply with chapter 84, HRS, before

appearing in a representative capacity before the commission. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "84-18, 91-2, 269-6, 271-9, 271G-7)

'6-61-15 Time and place for filing documents. All pleadings, briefs, and other documents required to be filed with the commission shall be filed at the office of the commission within the time limit prescribed by statutes, rules, or by order of the commission. Unless otherwise ordered, the date on which the papers are received shall be regarded as the

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date of filing. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 271-31, 271G-23)

'6-61-16 Format for pleadings and other documents. (a) Pleadings, briefs, and other documents shall be typewritten upon paper 8-1/2 x 11 inches in size. Tables, maps, charts, exhibits, or appendices may be larger but shall be folded to that size where practical. The impression shall be double spaced, except that footnotes and quotations in excess of a few lines may be single spaced. Reproduction may be by any process which makes clear and permanently legible copies.

(b) Pleadings, briefs, and other documents shall show the title of the proceeding, the docket number assigned by the chief clerk, the nature of the document, and the name and address of the person or attorney filing the document.

(c) The original of each document, including applications, complaints, answers, motions, notices, briefs, and amendments shall be signed in black ink by each party or

its counsel. Any handwritten entries on documents shall also be in black ink. If a party is a corporation or association, the document may be signed by an officer.

(d) The format for pleadings and motions as prescribed by Rule 3 of the Rules of the Circuit Courts of the State of Hawaii may be used in lieu of the requirements of this section. [Eff _____] (Auth: HRS "91 2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 271-31, 271G 23)

'6-61-17 Verification. Applications, complaints, and other pleadings that initiate a proceeding and amendments to any such application, complaint, or other pleading shall be verified by at least one applicant or

'6-61-19

complainant. Answers, if any, shall be verified by at least one of the respondents filing the same. Pleadings may be verified:

- (1) By an officer, if the party filing the pleading is a corporation or association;
- (2) By the attorney for a party, if that party is absent or for some cause is unable to sign and verify that pleading. [Eff _____] (Auth: HRS "91 2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 271-31, 271G 23)

'6-61-18 Copies. Unless otherwise required by this chapter or the commission, each party shall file with the commission an original and eight copies of each application, complaint, or other pleading and any amendment to an application, complaint, or other pleading and serve two copies on the consumer advocate at 1010 Richards Street,

Honolulu, Hawaii 96813. The chairperson or administrative director may require that additional copies be provided or additional persons be served. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 271-31, 271G-23)

'6-61-19 Defective documents. Any application filed with the commission, which is not in compliance with these rules, commission orders, other applicable rules, or statutes shall be accepted by the chief clerk and filed. The mere fact of filing shall not waive any failure to comply with this chapter or any other legal requirement. The commission may require the amendment of any application or entertain timely motions by the parties in connection therewith. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 271-31, 271G-23)

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'6-61-20 Amended pleadings. Any pleading may be amended at any time before service of a responsive pleading. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 271-31, 271G-23)

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'6-61-21 Service of process. (a) The commission shall cause the chief clerk to serve all decisions, orders, notices, and other documents issued by it, together with any other documents, that it is required by law to serve. All other documents shall be served by the parties filing them.

(b) The commission or any person filing documents shall serve a copy upon each party or its attorney and shall attach a certificate of service on the filed original. Any attorney

entering an appearance after the commencement of a proceeding shall notify all other attorneys then of record and all parties not represented by an attorney of that fact. The consumer advocate shall be served two copies of any documents filed with the commission.

(c) Documents shall be served personally or, unless otherwise provided by law, by first class mail.

(d) Service upon a party, other than the commission, shall be deemed complete upon the occurrence of at least one of the following:

(1) The party or its attorney is personally served;

(2) The document is delivered to the party's office or its attorney's office and left with some responsible person; or

(3) The document is properly stamped, addressed, and mailed to the last known address of the party on file with the commission or to its attorney.

(e) Whenever a party has the right to do some act or take some proceedings within a prescribed period after the service of a notice or other document upon the party and the notice or document is served upon the

'6-61-21

party by mail, two days shall be added to the prescribed period. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 269 6, 271 31, 271G-23)

'6-61-22 Computation of time. In computing any period of time specified under this chapter, in a notice, or in any order or rule of the commission, the day of the act, event, or default shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or holiday in which event the period runs until the end of the next day which is not a Saturday, Sunday, or holiday. When the

prescribed time is less than seven days, Saturdays, Sundays, and holidays within the designated period shall be excluded in the computation. As used in this chapter, "holiday" includes any day designated as such by section 8-1, HRS. [Eff] (Auth: HRS "91-2, 269 6, 271-9, 271G-7) (Imp: HRS "1-29, 91-2, 269-6, 271-31, 271G-23)

'6-61-23 Enlargement. (a) When by this chapter or by notice or by order of the commission, any act is required or allowed to be done at or within a specified time, the commission for good cause shown may at any time, in its discretion:

(1) With or without motion or notice, order the period enlarged, if written request is made before the expiration of the period originally prescribed or as extended by a previous order; or

(2) Upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action on jurisdictional

'6-61-23

matters and where any order expressly provides that no enlargement shall be granted.

(b) Motions for extensions of time and requests or stipulations for continuances must be in writing, except when made at hearing. Ordinarily, when a matter is to be submitted on concurrent briefs, extensions will not be granted unless a stipulation is filed with the commission. [Eff] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269 6, 271-31, 271G-23)

'6-61-24 Filing fees. The following filing fees shall be paid to the chief clerk when any of the following is filed:

(1) Public utilities, water carriers (property and passenger):

(A) Application or petition (excluding tariff filings, short notice filings, notices of increase, or filings for approval of capital expenditures) - \$30.00

(B) Tariff filing, short notice filing, notice of increase, or filing for approval of capital expenditures - no charge

(2) Motor carriers (property and passenger):

(A) Application or petition (excluding tariff filings, short notice filings) - \$30.00

(B) Tariff filings or short notice filings -no charge

(3) Motion to dismiss or motion for reconsideration or rehearing - \$15.00

(4) Intervention - \$15.00

(5) Notice of appeal (payable in addition to the deposit of Supreme Court costs) - \$30.00 [Eff] (Auth: HRS "91-2, 269-6, 269-30, 271-9, 271G-7) (Imp: HRS "91-2, 269 6, 269-30, 271-36)

'6-61-29

"6-61-25 to 27 (Reserved)

SUBCHAPTER 3

AGENCY HEARING PROCEDURES

'6-61-28 Disqualification. A commissioner or hearings officer shall be disqualified from participating in any proceeding where such participation would be a violation of the conflict of interest provisions of section 84-14, HRS. A commissioner or hearings officer shall disclose before the commencement of any agency hearing all relationships to any of the parties or participants. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 271-9, 271G-7)

'6-61-29 Ex parte communications. (a) No person, whether or not a party to or participant in an agency hearing, shall consult or communicate with any commissioner or hearings officer or any member of the commission staff on any issue of fact in a contested case proceeding before the commission, except as otherwise authorized in this section or by law.

(b) All written and oral ex parte communications received by any commissioner or hearings officer, containing facts or contentions in a contested case proceeding, which may affect the decision in the proceeding and which are known or believed to be unauthorized at the time of receipt, shall be immediately sent to all interested parties to the proceeding and made an official part of the record.

(c) The following classes of ex parte communications are authorized:

'6-61-29

(1) Communication between the commission and commission staff;

(2) Communication that relates solely to matters which a commissioner or hearings officer is authorized to dispose of on an ex parte basis;

(3) Communication with counsel or staff for the commission relating solely to matters of practice and procedure; and

(4) Communication had after adequate notice and opportunity for all parties to participate. [Eff] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-13, 269 3, 269-6)

'6-61-30 Notice of hearings or meetings. Notice of hearings shall be as follows:

(1) In rate increase proceedings for electric, gas, water, telephone, sewage and other utilities, notice of the public hearing, with the purpose of the hearing, shall be given as provided in sections 92 41, 269-12, and 269-16, HRS.

(2) For contested cases, the commission shall provide notice of the hearing to the applicant and any other parties of record as provided in sections 91-9 and 91-9.5, HRS.

(3) Notice of meetings shall be made in accordance with section 92-7, HRS.

(4) Notices of complaint hearings shall be made in the manner for formal complaints.

(5) Notice of rulemaking proceedings shall be made in accordance with sections 6 61-149 and 6-61-155. [Eff] (Auth: HRS "91-2, 269-6, 271 9, 271G 7) (Imp: HRS "91-3, 91-9, 92-41, 269-6, 269-12, 269-16, 271 31, 271G-23)

'6-61-33

'6-61-31 Order of procedure. (a) Except as otherwise provided in this section, in all hearings before the commission the applicant, complainant, or movant shall open and close. Intervenors, respondents, and participants shall be heard in the order the

presiding officer directs.

(b) When a tariff, not involving a rate increase, has been placed under investigation, the respondent shall open and close. In other investigation proceedings, the presiding officer shall determine the order of presentation. Intervenors and participants shall be heard in the order the presiding officer directs.

(c) The order of presentation shall not alter the burden of proof, including the burden of producing evidence and the burden of persuasion. The party or

parties who must bear these burdens shall be determined by law. [Eff _____]
(Auth: HRS "91-2, 269-6, 271 9, 271G 7) (Imp: HRS "91-2, 269-6, 271 31, 271G 23)

'6-61-32 Co-counsel. Unless otherwise allowed by the presiding officer, only one of the attorneys for each party that is represented by more than one attorney shall be permitted to conduct the direct examination of a witness; cross-examine a witness; state and argue an objection or motion; and make opening or closing argument.
[Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269 6, 271-31, 271G-23)

'6-61-33 Cross-examination. Each party has the right to conduct such cross-examination of the adverse party's witnesses as may be required for a full and true disclosure of the facts and has the right to submit rebuttal evidence. [Eff _____]
(Auth: HRS "91-2, 269-6, 271 9, 271G 7) (Imp: HRS "91-10, 269-13, 271-9, 271G-7)

'6-61-34

'6-61-34 Limiting number of witnesses. To avoid unnecessary or unduly repetitious evidence, the presiding officer may limit the number of witnesses or the time for testimony upon a particular issue. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G 7) (Imp: HRS "91-10, 269-6, 271-9, 271G 7)

'6-61-35 Waiver of procedures, informal disposition. With the approval of the commission, any procedure in a contested case may be modified or waived by stipulation of the parties and informal disposition may be made of any contested case by stipulation,

agreed settlement, consent order, or default. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G 7) (Imp: HRS "91-9, 269-6, 271-9, 271G 7)

'6-61-36 Prehearing conference. In any proceeding, the commission or hearings officer, on its own initiative or at the request of the parties, may convene a prehearing conference to consider:

- (1) Simplification of issues;
- (2) Necessity or desirability of amendments to pleadings;
- (3) Possibility of obtaining admissions of fact and documents to avoid unnecessary proof;
- (4) Limiting the number of witnesses and disclosing the names of witnesses to be called;
- (5) The theory of each party's case, including the basic facts it intends to prove;
- (6) Marking of exhibits for identification; and
- (7) Other matters which may aid the efficient disposition of the proceeding.

[Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 271-31, 271G-23)

'6-61-38

'6-61-37 Prehearing order. (a) Where a prehearing conference is held, the commission or hearings officer shall enter a prehearing order which recites the action taken at the conference, including:

- (1) The amendments allowed to the pleadings;
- (2) The agreements made by the parties as to any of the matters considered;
- (3) The issues for hearing not otherwise disposed of by admissions or agreements of the parties; and
- (4) The procedural schedule.

(b) The prehearing order shall control the subsequent course of the hearing, unless modified by the commission or hearings officer at the hearing to prevent manifest injustice. The prehearing order shall supersede the pleadings where there is any conflict and shall supplement the pleadings in all other respects. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G 7) (Imp: HRS "91-2, 269-6, 271-31, 271G 23)

'6-61-38 Requests for subpoenas. (a) Any party may request the issuance of a subpoena requiring the attendance of a witness to testify before the commission. The request shall be in writing and shall state the reasons why the testimony of the witness is material and relevant to the issues in the proceeding.

(b) Any party may request the issuance of a subpoena duces tecum for the production of documents or records. The request must:

- (1) Be in writing;
- (2) Specify the particular document or record, or portion of document or record sought; and

(3) State the reasons why the production is material and relevant to the issues in the proceeding.

(c) Only parties may request the issuance of a subpoena.

'6-61-38

(d) The presiding officer may issue a subpoena. In the absence of the presiding officer, any commissioner may issue a subpoena. No subpoena shall be issued unless the party requesting the subpoena has complied with subsections (a) or (b) and gives the name and address of the desired witness. Signed and sealed blank subpoenas shall not be issued to anyone. The name and address of the witness shall be inserted in the original subpoena, and a copy shall be filed in the proceeding. A subpoena shall show at whose request or order the subpoena is issued.

(e) The party requesting a subpoena shall pay to the witness the same fees and mileage as are paid witnesses in circuit courts of the State.

(f) Witnesses shall be placed under oath prior to testifying. [Eff _____] (Auth: HRS "91 2, 92-16, 269 10, 271-9, 271G-7) (Imp: HRS "91 2, 269-6, 271 31, 271G-23)

'6-61-39 Consolidation or separation. The commission, upon its own initiative or upon motion, may consolidate for hearing two or more proceedings that involve related questions of fact or law or may separate matters in issue for hearing in two or more separate proceedings, if it finds that consolidation or separation will be conducive to the proper dispatch of its business and to the ends of justice and will not unduly delay the proceedings. [Eff _____] (Auth: HRS "91 2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269 6, 271 31, 271G-23)

'6-61-40 Substitution of parties. Upon motion and for good cause shown, the commission may order substitution of parties. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G 7) (Imp: HRS "91-2, 269-6, 271-31, 271G 23)

'6-61-41

'6-61-41 Motions. (a) All motions, except when made during a hearing, shall:

- (1) Be in writing;
- (2) State the grounds for the motion;
- (3) Set forth the relief or order sought; and
- (4) Be accompanied by a memorandum in support of the motion, if the motion involves a question of law.

(b) Every motion, except one entitled to be heard ex parte, shall indicate whether a hearing is requested on the motion. If a motion requires the consideration of facts not appearing of record, it shall be supported by an affidavit or affidavits. Motions shall be served in accordance with section 6-61-21.

(c) An opposing party may serve and file counter affidavits and a written statement of reasons in opposition to the motion and of the authorities relied upon not later than five days after being served the motion, or, if the hearing on the motion will occur less than five days after the motion is served, at least forty-eight hours before the time set for hearing, unless otherwise ordered by the chairperson.

(d) A party who does not oppose a motion or who intends to support a motion or who desires a continuance shall notify the commission and the opposing attorneys within five days after being served or, if the hearing on the motion will occur less than five days after the motion is served, within forty eight hours before the time set for hearing.

Failure to appear at the hearing may be deemed a waiver of objections to the granting of the motion.

(e) Motions that do not involve the final determination of a proceeding may be heard and determined by the chairperson or a commissioner.

(f) If a hearing is requested, the movant shall obtain a date and time for hearing on the motion from the chief clerk.

(g) If a hearing on the motion is not requested, the commission may decide the matter upon the

'6-61-41

pleadings, memoranda, and other documents filed. [Eff _____] (Auth: HRS "91-2, 269-9, 271 9, 271G-7) (Imp: HRS "91-2, 269-6, 271-31, 271G 23)

'6-61-42 Motion to dismiss. A motion to dismiss any application or complaint made before a hearing on the merits of a case, shall not be heard until five days after the motion has been filed. [Eff _____] (Auth: HRS "91 2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 269-6, 271 31, 271G 23)

'6-61-43 Rules of evidence. Neither the commission nor a hearings officer is bound by the common law rules relating to the admission or rejection of evidence. The commission or hearings officer may exercise its own discretion in these matters, limited only by considerations of relevancy, materiality, and repetition by the rules of privilege recognized by law, and with a view to doing substantial justice. [Eff _____] (Auth:

HRS "91-2, 269-6, 271 31, 271G-23) (Imp: HRS "91 10, 269 6)

'6-61-44 Rulings. (a) The presiding officer shall rule on the admissibility of evidence and on any oral motions made in the course of the hearing. The presiding officer may issue a ruling after taking the matter under advisement. The presiding officer's rulings may be reviewed by the commission in determining matters on their merit. In extraordinary circumstances where prompt decision by the commission is necessary to promote justice, the presiding officer may refer the question of admissibility or any motion to the commission for determination.

'6-61-45

(b) When objections are made to the admission or exclusion of evidence, the grounds relied upon shall be stated briefly. Formal exceptions to rulings are unnecessary and need not be taken.

(c) An offer of proof for the record shall consist of a statement of the substance of the evidence to which objection has been sustained. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 269-6, 271-31, 271G 7)

'6-61-45 Prepared testimony. (a) With the approval of the presiding officer, a witness on direct examination may read into the record or summarize the witness' prepared testimony. Before any testimony is read or summarized, unless excused by the presiding officer, the witness shall deliver copies of any prepared testimony to the presiding officer, the chief clerk, and all attorneys or parties. Admissibility shall be subject to the rules governing oral testimony. If the presiding officer deems it in the interest of orderly procedure or if substantial savings in time will result, the prepared

testimony may be received in evidence without reading, provided that copies of the prepared testimony are served upon all parties and the commission at least five days before the hearing, unless otherwise directed by the presiding officer.

(b) To promote an orderly hearing procedure, prepared testimony and exhibits that are filed with the commission in advance pursuant to a prehearing order shall be received in evidence without reading. Witnesses may summarize their prepared testimony during the hearing. Any amendments to the prepared direct and rebuttal testimony shall be served upon all parties and filed with the commission in accordance with the prehearing order or as the presiding officer directs. A party introducing totally new matters by revisions or supplements shall attach a sworn affidavit explaining why these matters were not submitted with the direct

'6-61-45

testimony. The commission may, if the explanation is unreasonable, reject the amended testimony. Notwithstanding that prepared testimony and exhibits are placed into evidence by this subsection, the parties to the proceeding may, during the hearing, object on evidentiary grounds to the admissibility of all or part of the prepared testimony or exhibits and move to strike the same. Notwithstanding that an applicant's or respondent's testimony and exhibits are in evidence, a party will not be precluded from presenting any motion it deems appropriate after the close of the applicant's or respondent's case.

(c) Prepared testimony shall be legible and on paper not exceeding 8-1/2" x 11 inches. Testimony shall be:

- (1) Double spaced;
- (2) Printed on only one side of each page; and
- (3) Printed on pre-numbered lines.

[Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 269-6, 271-31, 271G 23)

'6-61-46 Documentary evidence. (a) If relevant and material matter offered in evidence is included in a document containing other matters, the offering party shall designate specifically the matter so offered. If other matters in the document would unnecessarily encumber the record, at the discretion of the presiding officer, the relevant and material matter may be read into the record or copies or portions thereof received as an exhibit and the rest excluded. Other parties may examine the document and offer in evidence other portions which are material and relevant.

(b) Documentary exhibits shall be legible and on paper not exceeding 8-1/2 x 11 inches or bound or folded to that size where practical. Whenever practicable, pages of each exhibit shall be numbered, and data and other figures shall be in tabular form.

(c) When exhibits are offered in evidence, the original and eight copies shall be furnished to the

'6-61-48

presiding officer and a copy given to each party, unless the presiding officer directs otherwise. [Eff] (Auth: "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 271-31, 271G-23)

'6-61-47 Official records. (a) If any matter in a document on file as an official record with the commission is offered in evidence, it may be received in evidence by reference, unless otherwise directed by the presiding officer, provided that the particular portions of the document are specifically identified and are otherwise relevant and material to the issues. (b) If testimony in another proceeding before the commission is offered in evidence, a copy of the material and relevant portions of the transcript shall be offered as an exhibit unless the testimony was summarized, in which case a copy of the material and relevant portions of the prepared testimony shall be offered as an exhibit.

(c) Admissibility shall be subject to the rules governing oral testimony. [Eff]
(Auth: "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91 2, 269-6, 271-31, 271G-23)

'6-61-48 Official notice of facts. The commission may take official notice of those matters as may be judicially noticed by the courts of the State. It may also take official notice of generally recognized technical or scientific facts within its specialized knowledge, upon notice to all parties before or during the hearing. Any party may contest the facts so noticed. [Eff] (Auth: "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91 2, 269 6, 271-31, 271G-23)

'6-61-49

'6-61-49 Additional evidence. At the hearing, the presiding officer may require the production of further evidence upon any issue or may call other competent witnesses to testify upon any issue. The presiding officer may authorize a party to file documentary evidence as part of the record within a fixed time after conclusion of a hearing. [Eff] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 271-31, 271G 23)

'6-61-50 Protective orders. A party or any person may move for a protective order to protect the confidentiality of information that is protected from disclosure under chapter

92F, HRS, or by law. A motion for a protective order shall specifically identify the document or information to be protected. The movant shall bear the burden of establishing that the information should be protected. Stipulations for a protective order, subject to the commission's approval, may be accepted in lieu of motions for protective orders. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269 6, 271 31, 271G-23)

'6-61-51 Correction of transcript. A party may move to correct the transcript within fifteen days after receipt of the transcript. The movant shall serve a copy of the motion upon all other parties. The motion shall certify the date when the transcript was received. If no objection to the motion to correct is served and filed within ten days after service and filing of the motion, the commission or hearings officer may issue an order making those corrections. If any party objects to the correction, the commission or hearings officer shall determine whether the correction should be made, with due consideration given

'6-61-55

to the stenographic transcript of the hearing. [Eff _____] (Auth: HRS "91-2, 269 6, 271 9, 271G-7) (Imp: HRS "91-2, 269 6, 271 31, 271G 23)

"6-61-52 to 54 (Reserved)

SUBCHAPTER 4

INTERVENTION, PARTICIPATION, PROTEST AND CONSUMER ADVOCATE

'6-61-55 Intervention. (a) A person may make an application to intervene and become a party by filing a timely written motion in accordance with sections 6 61 15 to 6-61-24, section 6-61-41, and section 6 61-57, stating the facts and reasons for the proposed intervention and the position and interest of the applicant.

(b) The motion shall make reference to:

- (1) The nature of the applicant's statutory or other right to participate in the hearing;
- (2) The nature and extent of the applicant's property, financial, and other interest in the pending matter;
- (3) The effect of the pending order as to the applicant's interest;
- (4) The other means available whereby the applicant's interest may be protected;
- (5) The extent to which the applicant's interest will not be represented by existing parties;
- (6) The extent to which the applicant's participation can assist in the development of a sound record;

'6-61-55

- (7) The extent to which the applicant's participation will broaden the issues or delay the

proceeding;

(8) The extent to which the applicant's interest in the proceeding differs from that of the general public; and

(9) Whether the applicant's position is in support of or in opposition to the relief sought.

(c) The motion shall be filed and served by the applicant in accordance with sections 6-61-21 and 6-61-57.

(d) Intervention shall not be granted except on allegations which are reasonably pertinent to and do not unreasonably broaden the issues already presented.

[Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 271-31, 271G-23)

'6-61-56 Participation without intervention. (a) The commission may permit participation without intervention. A person or entity in whose behalf an appearance is entered in this manner is not a party to the proceeding and may participate in the proceeding only to the degree ordered by the commission. The extent to which a participant may be involved in the proceeding shall be determined in the order granting participation or in the prehearing order.

(b) A person who has a limited interest in a proceeding may make an application to participate without intervention by filing a timely written motion in accordance with sections 6-61-15 to 6-61-24, section 6-61-41, and section 6-61-57.

(c) The motion shall provide:

(1) A clear and concise statement of the direct and substantial interest of the applicant;

(2) The applicant's position regarding the matter in controversy;

(3) The extent to which the participation will not broaden the issues or delay the proceeding;

- (4) The extent to which the applicant's interest will not be represented by existing parties;
- (5) A statement of the expertise, knowledge or experience the applicant possesses with regard to the matter in controversy;
- (6) Whether the applicant can aid the commission by submitting an affirmative case; and
- (7) A statement of the relief desired. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 271-31, 271G-23)

'6-61-57 Time to file. A motion to intervene or participate, to be timely, shall be filed and served as follows:

- (1) A motion to intervene or participate in a public utility rate increase case shall be filed not later than ten days after the last public hearing held pursuant to the published notice of the hearing. The date for filing a timely motion to intervene shall be indicated in the published notice of public hearing. The movant shall serve its motion on the applicant and consumer advocate before filing it with the commission and shall file with the commission a proof of that service;
- (2) In all applications requesting issuance or transfer of a certificate of public convenience and necessity or contract carrier's permit, the motion to intervene or participate shall be filed not later than twenty days after a notice of the pending application has been published in a newspaper of general circulation within the State or within the county or counties affected by the application. The movant shall serve a copy of its motion on the applicant and two copies on the consumer advocate and shall file with the commission a proof of that service; or

'6-61-57

(3) A motion to intervene or participate shall be served on all parties and the consumer advocate and filed, in the proceedings other than those specified in paragraphs (1) or (2), no later than:

(A) Twenty days after an application is filed;

(B) Twenty days after the commission orders an investigation including an investigation of a tariff change or an initial tariff filing. However, a motion to intervene or participate in a tariff change that results in a public utility general rate increase must be filed as specified in paragraph (1); or

(C) Ten days before the date set for the first day of hearing on a complaint.

[Eff _____] (Auth: HRS "91-2, 269-6, 271-6, 271G-9) (Imp: HRS "91-2, 269-6, 271-31, 271G-23)

'6-61-58 Protests. Any person filing a protest against a water carrier, motor carrier, or a public utility tariff change shall:

(1) State the protester's full name, mailing address, and telephone number; and

(2) State the facts constituting the grounds for protest, show how the protester is affected, and why the proposed increase or change may not be justified.

[Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 271-20, 271G-17)

'6-61-59 Protests of motor carrier tariff change. Any person may protest or oppose any proposed tariff change filed by a motor carrier or its designated tariff agent by notifying the commission in writing and

'6-61-61

-serving the protest on the motor carrier or its designated agent not less than twelve days before the effective date of the proposed tariff change. The motor carrier or its designated tariff agent may file its reply to the protest not less than five days before the effective date of the proposed tariff change with proof of service of a copy of its reply on the protester. [Eff] (Auth: HRS "91-2, 269-6, 271 9) (Imp: "91-2, 269-6, 271 20)

'6-61-60 Protests of water carrier tariff change. Any person may protest or oppose any proposed tariff change filed by a water carrier by notifying the commission in writing and serving the protest on the water carrier or its designated agent not less than fifteen days before the effective date of the proposed tariff change. The water carrier may file its reply to the protest not less than five days before the effective date of the proposed tariff change with proof of service of a copy of its reply on the protester. [Eff] (Auth: HRS "91-2, 269-6, 271G-7) (Imp: HRS "91-2, 269-6, 271G-17)

'6-61-61 Protests of public utility tariff change. Any person may protest or oppose any proposed tariff changes filed by a public utility pursuant to section 6 61-111 by notifying the commission in writing and serving the protest on the public utility or its designated agent not less than fifteen days before the effective date of the proposed tariff change. The public utility may file its reply to the protest not less than five days before the effective date of the proposed tariff change with proof of service of a copy of its reply on the protester. [Eff] (Auth: HRS "91-2, 269-6) (Imp: HRS "91-2, 269-6)

'6-62-62

'6-61-62 Consumer advocate. (a) The consumer advocate is, ex officio, a party to any proceeding before the commission. The consumer advocate shall, except as noted herein, submit a statement of position to the commission, with service to the parties of record, stating:

- (1) Whether it intends to participate in the proceeding;
- (2) Its position on the relief requested in the application or complaint (including whether it is in support of or in opposition to the relief requested) or on the investigation ordered by the commission; and
- (3) The basis for its position.

(b) The consumer advocate shall further apprise the commission and the parties of record of any facts which relate to the protection or advancement of the consumer interest.

(c) The consumer advocate, unless otherwise requested by the commission, need not submit any statements of position for rulemaking proceedings initiated by the commission or for proceedings brought under sections 269-16, 271-20, 271-21, 271-22, 271G 16 and 271G-17, HRS.

(d) The consumer advocate shall file its statement of position within twenty days after it has been served with copies of an application or complaint or with a copy of a commission order of investigation. In emergency cases, the commission may require the filing of a position statement within a shorter time. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 269-51, 271-9, 271G 7)

'6-61-63 to 65 (Reserved)

'6-61-66

SUBCHAPTER 5

COMPLAINTS AND COMMISSION INVESTIGATIONS

'6-61-66 Informal complaints. (a) An informal complaint in writing may be made by any person against any public utility, water carrier, motor carrier, or other person subject to commission jurisdiction. The complaint shall state the name of the respondent, the date and approximate time of the alleged act, and set forth fully and clearly the facts of the act complained of.

(b) The complaint should be drawn as to fully and completely advise the respondent and the commission in what respects the provisions of the law or rules have been or are being violated or will be violated and should set forth in plain language the facts claimed to constitute the violation.

(c) The complaint should specify the relief sought or desired, such as, but not limited to, requests for refund from respondent or that respondent should cease and desist from a practice.

(d) Informal complaints may be in letter form. The commission will assign a number to

each complaint. A complaint is deemed filed on the date it is received by the commission. All supporting papers, including, but not limited to, bills, letters, and notices, must be submitted at the time of filing; otherwise the complaint may be returned as incomplete.

(e) If the informal complaint appears to be susceptible to informal adjustment, a copy or a statement of the substance of the complaint may be transmitted by the commission to the respondent in an endeavor to have the complaint satisfied by correspondence or conference without the need for a formal complaint.

(f) If a formal complaint is filed, the processing of the informal complaint shall be

'6-61-66

discontinued. [Eff _____] (Auth: HRS "91-2, 269 6, 271-9, 271G-7) (Imp: HRS "91-2, 269 7, 269 12, 271 9, 271G-7)

'6-61-67 Formal complaints. (a) Any person may file a formal complaint against any public utility, water carrier, motor carrier, or other person subject to commission jurisdiction.

(b) Formal complaints shall:

(1) Be in writing;

(2) Comply with sections 6-61-15 to 6 61 21;

(3) State the full name and address of each complainant and of each respondent;

(4) Set forth fully and clearly the specific act complained of in ordinary and concise language; and

(5) Advise the respondent and the commission completely of the facts constituting the

grounds of the complaint, the injury complained of, and the exact relief desired.

(c) A complaint that alleges a violation of law shall clearly specify the particular parts of the law which are alleged to have been violated and the facts which the complainant relies upon to establish the violation.

(d) If two or more sections or subsections of the law or two or more requirements established pursuant to law are alleged to be violated, the facts claimed to constitute violation of one section, subsection, or requirement shall be stated separately from those claimed to constitute a violation of another section, subsection, or requirement whenever that can be done without undue repetition.

(e) If the formal complaint substantially complies with this subchapter, the commission shall serve a copy upon each respondent, together with an order requiring that the complaint be answered within twenty days after the date of service. Two copies of the formal complaint shall also be served on the

'6-61-69

consumer advocate. In emergency cases, the commission may require the filing of an answer within a shorter time.

(f) If the formal complaint is not in substantial compliance with this subchapter, the commission shall return the complaint to the complainant with an explanation of the reasons why the formal complaint does not comply with this chapter. [Eff _____]
(Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 92-17, 269-7, 269 12, 271-9, 271G-7)

'6-61-68 Answer to formal complaints. The respondent shall, within the time specified in the order or any extension thereof as the commission grants, file its answer with proof of service on the complainant and the consumer advocate. All grounds of defense, both of law and of fact, shall be raised in the answer. If the respondent has no information or belief upon the subject sufficient to enable an answer to the allegation, it

may so state in the answer and place its denial upon that ground. [Eff _____]
(Auth: HRS "91-2, 269 6, 271 9, 271G-7) (Imp: HRS "91-2, 92-17, 269-7, 269 12, 271-9, 271G-7)

'6-61-69 Motion to dismiss or to make more definite and certain. (a) Respondent may file with its answer a motion that the allegations in the complaint be made more definite and certain. The motion shall specify the defects complained of and the details desired. The respondent may also file a motion to dismiss a complaint because the complaint fails to state a claim upon which relief can be granted or for

other valid reasons. If a motion to dismiss is filed before the answer, the commission shall set the date for filing the answer when it rules upon the motion.

'6-61-69

(b) No reply to the answer shall be filed, but the complainant, within ten days after the filing of the answer, may file a motion that the answer be made

more definite and certain. The motion shall specify the defects complained of and the details desired. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 269-7, 271-31, 271G 7)

'6-61-70 Hearing on complaints. When a respondent has filed its answer, the commission shall set a hearing on the complaint. The chief clerk shall mail the notice of hearing by first class mail to the complainant and the respondent at least ten days before the hearing, setting forth the date, time, and place of hearing. [Eff _____]
(Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-7, 271 31, 271G-7)

'6-61-71 Commission investigation. The commission may at any time investigate matters subject to its jurisdiction. The chief clerk shall serve notices or orders instituting investigation, indicating the nature of the matters to be investigated and the name of the respondents being investigated. A respondent need not file a pleading in response to the investigatory order unless so directed. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 269-7, 269-15, 271 31, 271G-23)

"6-61-72 to 73 (Reserved)

'6-61-74

SUBCHAPTER 6

APPLICATIONS AND PETITIONS GENERALLY

'6-61-74 Contents. All applications and petitions shall:

- (1) State clearly and concisely the authorization or relief sought;
- (2) Cite the appropriate statutory provision or other authority under which commission authorization or relief is sought; and
- (3) In addition to specific requirements for particular types of applications (see subchapters 7 to 10), state the following:
 - (A) The applicant's legal name and location of principal place of business, and, if a corporation, trust, association, or other organization, the state under whose laws the applicant was organized;
 - (B) The name, title, and address of the person to whom correspondence or communications in regard to the application are to be addressed. Notices, orders, and other documents shall be served upon the person named, and that service shall be deemed to be service upon the applicant; and
 - (C) If ex parte action or relief pending full hearing is sought, the necessity or emergency justifying the requested action. [Eff] (Auth: HRS "91-2, 269 6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 269 7.5, 271-9, 271G 7)

'6-61-75

'6-61-75 Financial statement. (a) Unless otherwise directed by the commission, whenever this chapter provides that a financial statement shall be submitted with an application or petition, the statement shall be prepared up to the latest available date and shall show, where applicable, the following information:

(1) Amount and kinds of stock authorized by articles of incorporation and amount outstanding;

(2) Terms of preference of preferred stock, whether cumulative or participating or on dividends or assets, or otherwise;

(3) Brief description of each security agreement, mortgage, and deed of trust on applicant's property, showing date of execution, debtor and secured party, mortgagor and mortgagee,

and trustor and beneficiary, amount of indebtedness authorized to be secured thereby, and amount of indebtedness actually secured, together with any sinking fund provisions;

(4) Amount of bonds authorized and issued, giving the name of the public utility or parent company which issued same, describing each class separately, and giving the date of issue, par value, rate of interest, date of maturity and manner secured, together with amount of interest paid thereon during the last calendar year and any special provisions in the indenture, such as sinking fund provisions and interest coverage;

(5) Each note outstanding, giving the date of issue, to whom payable, amount, date of maturity, and rate of interest, together with amount of interest expense thereon during the last calendar year;

(6) Other indebtedness, giving same by classes and describing security, if any, with a brief statement of devolution or assumption of any portion of indebtedness upon or by any person

'6-61-76

or corporation if the original liability has been transferred, together with amount of interest expense thereon during the last calendar year; and

(7) Rate and amount of dividends paid during the five previous calendar years and the year end amount of capital stock for those years.

(b) The financial statement submitted pursuant to subsection (a) shall be accompanied by:

- (1) An audited balance sheet, including any pertinent notations and explanations contained therein, as of the end of the last calendar year;
- (2) An income statement covering the period from the close of the last audited balance sheet up to the date of the latest available balance sheet attached to the application; and
- (3) For a person seeking a certificate of public convenience and necessity as a public utility or water carrier, or seeking a certificate of public convenience and necessity or permit as a motor carrier, a pro forma income statement for the twelve months following the month in which the application is filed and a pro forma balance sheet as of the end of those twelve months. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 271-9, 271G-7)

'6-61-76 Incorporation by reference. Financial information, whether specified in section 6-61-75 or otherwise, and information required for particular types of applications may be provided by reference to a specific document or documents or parts thereof previously filed with the commission. The reference shall note the date of filing, the exhibit number, and the proceeding in which the document or documents were filed. To avoid repetitive filing of documents with

'6-61-76

applications, petitions, or tariff filings, any public utility, water carrier, or motor carrier may submit a complete set of the documents or information required under section 6 61 75 and section 6-61-87(8) and subsequently update the documents or information by submitting a copy of any new reports, statements, or documents as they are filed with federal or state agencies. If this procedure is used, a copy of all documents filed with the commission shall also be submitted to the consumer advocate. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 269-6, 271-9, 271G 7)

'6-61-77 to 78 (Reserved)

SUBCHAPTER 7

APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY OR PERMITS

'6-61-79 Motor carriers. An application for a motor carrier certificate of public convenience and necessity or permit shall comply with sections 6-61-15 to 6 61-24, section 6-61-74, and section 6-61-75. In addition, the application must contain the following information and data, either in the body of the application or in the exhibits attached to the application:

(1) A general description of the type of service being performed or proposed by the applicant, a reference to the statutory authority under which existing service is or will be performed, and a statement of the specific authority requested;

'6-61-79

(2) Where the application is for the transportation of passengers, the application must

state whether the proposed service will be over a regular or irregular route and whether authority is being sought to transport passengers and their baggage in the same equipment or whether the baggage will be transported in separate equipment. Service over a regular route is service that traverses over a fixed route with no deviation, with stops at fixed termini and on a time schedule, whether daily or hourly;

(3) The geographical scope of the proposed operation, including the termini and other points proposed to be served, and a concise narrative description of the proposed service;

(4) A map or sketch of the area to be served, drawn to suitable scale and showing present and proposed operation by distinctive coloring or marking;

(5) A statement of the rates or fares proposed to be charged, rules governing service, and the level and nature of proposed rates. Reference may be made to a tariff or tariffs on file with the commission. An applicant for a permit shall file with the commission a certified copy of a written contract or contracts between the shipper and the applicant before commencing operations;

(6) The frequency of the proposed service and the number of parties to be served;

(7) The kind and approximate number of units of equipment to be employed in the proposed service;

(8) The qualification and experience of key personnel;

(9) A statement of financial ability to render the proposed service, together with a financial statement prepared in accordance with section 6-61 75; and

'6-61-79

(10) Facts showing that the proposed service is or will be required by the present or future public convenience and necessity and is in compliance with the transportation policy declared in section 271-1, HRS.

[Eff _____] (Auth: HRS "91-2, 269-6, 271-9) (Imp: HRS "91-2, 269-6, 271 8, 271 12, 271-13)

'6-61-80 Service of motor carrier applications. (a) An applicant shall serve a copy of its application on:

(1) The appropriate carrier association when the proposed service will directly compete with the carriers in the association with respect to the territory served, the classification or types of commodities transported, or the classification of passenger carriers; and

(2) The consumer advocate (2 copies).

(b) The applicant shall file a certificate of service with the application.

(c) An applicant shall mail a copy of its application to those additional parties as directed by the commission. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9) (Imp: HRS "91-2, 269-6, 271 12)

'6-61-81 Water carriers. An application for a water carrier certificate of public convenience and necessity shall comply with sections 6-61-15 to 6 61 24, and sections 6-61-74 and 6-61-75. In addition, the application must contain the following information, either in the body of the application or in exhibits attached to the application.

(1) A general description of the type of service being performed or proposed by the applicant, a reference to the statutory authority under

'6-61-82

which existing service is or will be performed, and a statement of the specific authority requested;

(2) The geographical scope of the proposed operation, including the termini and other points proposed to be served, and a concise narrative description of the proposed service;

(3) A statement of the rates or fares proposed to be charged, rules governing service, and the level and nature of proposed rates. Reference may be made to a tariff or tariffs on file with the commission;

(4) The frequency of the proposed service and the number of parties to be served;

(5) The kind and approximate number of units of equipment to be employed in the proposed service;

(6) The qualification and experience of key personnel;

(7) A statement of financial ability to render the proposed service together with a financial statement in accordance with section 6-61-75; and

(8) Facts showing that the proposed service will be required by the present and future convenience and necessity and is in compliance with the policy declared in section 271G-2, HRS.

[Eff] (Auth: HRS "91-2, 269-6, 271G-7) (Imp: HRS "91-2, 269-6, 271G-2, 271G 10)

'6-61-82 Service of water carrier applications. (a) An applicant for a water carrier certificate shall serve a copy of the application on:

(1) The consumer advocate (2 copies);

(2) The respective mayors of the counties within the State that are affected by the proposed service;

'6-61-82

(3) The director of transportation, department of transportation; and

(4) Other persons that may be designated by the chairperson.

(b) The applicant shall file a certificate of service with the application. [Eff]
(Auth: HRS "91-2, 269-6, 271G-7) (Imp: HRS "91-2, 269-6, 271G 10)

"6-61-83 to 84 (Reserved)

SUBCHAPTER 8

RATE INCREASE APPLICATIONS AND TARIFF CHANGES

'6-61-85 General provisions. (a) In order for the commission to schedule its future workload requirements in an efficient manner, every public utility and water carrier shall file with the commission a notice of intent to file a general rate

increase not less than two months before filing its application or notice of increase, except that the foregoing does not apply to a public utility with annual gross utility operating revenues under \$2,000,000. The carrier or applicant shall serve a copy of the notice of intent on the consumer advocate and the mayor of each county affected by the proposed rate increase. Proof of service must be filed with the notice of intent. The filing of a notice of intent does not set any hearing scheduling priorities for the public utility or water carrier that files the notice.

(b) This subchapter does not apply to changes pursuant to an automatic rate adjustment clause. [Eff _____] (Auth: HRS "91-2, 269-6, 271G 7) (Imp: HRS "91-2, 269-6, 271G 7)

'6-61-87

'6-61-86 Public utility applications to change tariff provisions. A public utility requesting authority to change any rate, schedule, or charge or to alter any classification, contract, practice, or rule as to result in such a change shall file an application which complies with sections 6 61 15 to 6 61-24 and section 6-61-74 and file a financial statement under section 6-61-75. In addition, the application shall contain the following information and data, either in the body of the application or in exhibits attached to the application:

(1) The currently effective rates, fares, tolls, rentals, or charges that are proposed to be changed or the classification, contract, practice, or rule proposed to be altered. The information and data need not be in tariff form; and

(2) The proposed changes, the justification for the proposed changes, the proposed rate structure, and the costs and other factors considered in proposing the change.
[Eff _____] (Auth: HRS "91-2, 269 6) (Imp: HRS "91-2, 269-6)

'6-61-87 Requirements for general rate increase applications by a public utility with annual gross operating revenues of \$2,000,000 or more. For an application by a public utility with annual gross revenues from its public utility business of \$2,000,000 or more for a general rate increase or to alter any classification, contract, practice, or rule as to result in a general rate increase to be considered a completed application under section 269-16, HRS, in addition to meeting the requirements in section 6 61 86, must contain the following:

(1) A general description of the applicant's property and equipment or a reference to that description in a recent prior application;

'6-61-87

(2) A statement of the original cost of the applicant's property and equipment, together with a statement of the applicable depreciation reserve. If it is impossible to state original cost, the facts creating the impossibility shall be set forth;

(3) The total increase requested, expressed in terms of dollars and by percentage. The increase to the different classes of service shall be expressed both in terms of dollars and by percentage;

(4) A summary of estimated earnings (rate of return summary) on a depreciated rate base for a twelve month period (test year). The adjusted or estimated results shown for the test year shall be on a consistent basis reflecting normalized conditions to the very best estimate possible. The test year shall be a forward test year, determined as follows:

(A) If an application is filed within the first six months of any year, the test year shall be from July 1 of the same year through June 30 of the following year; or

(B) If an application is filed within the last six months of any year, the test year shall be from January 1 through December 31 of the following year;

(5) Schedules for changed rates showing actual recorded results of operations for the last calendar year ending December 31, the latest actual recorded results, and the projected test year results. The schedules for the latest recorded results and the test year must reflect any significant changes (actual and projected) in plant-in-service revenues and expenses since the last calendar year ending December 31;

'6-61-87

(6) If an applicant has more than one division or county to serve in the State, the earnings results for the total utility operations as well as for the particular division or county for which rate changes are sought. If an applicant cannot comply with this rule, it shall state the reasons why it cannot comply;

(7) Which of the optional methods provided in the Internal Revenue Code of 1986 the applicant has elected to employ in computing deferred taxes, investment tax credit, and depreciation deduction in determining its federal income tax payments and whether the applicant has used the same method or methods in calculating federal income taxes for the test year for ratemaking purposes;

(8) A copy of:

(A) The last annual report to stockholders;

(B) The latest proxy statement sent to stockholders by it or its parent company; and

(C) The latest form 10(k), Annual Report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, filed with the Securities and Exchange Commission;

(9) If the applicant is a telephone utility, separated showings of the rate of return on a depreciated rate base for its intrastate operations and for its total telephone utility operations;

(10) A statement whether or not the increase reflects and passes through to customers only increased costs to the applicant for the services or commodities furnished by it; and

(11) Written direct testimony justifying the increase requested and supporting exhibits and workpapers. [Eff] (Auth: HRS "91-2, 269-6) (Imp: HRS "91 2, 269 16)

'6-61-88 Requirements for general rate increase applications by a public utility with annual gross operating revenues of less than \$2,000,000. For an application by a public utility with annual gross revenues from its public utility business of less than \$2,000,000 for a general rate increase or to alter any classification, contract, practice, or rule as to result in a general rate increase to be considered a completed application under section 269-16, HRS, the application, in addition to meeting the requirements of section 6-61-86, must contain the following:

- (1) A general description of the applicant's property and equipment;
- (2) The total increase requested, expressed in terms of dollars and per cent. If different classes of service are affected, the increase requested shall be expressed in both dollars and by percentage for each class;
- (3) A summary of estimated earnings (rate of return summary) on a depreciated rate base for a twelve month period (test year). The adjusted or estimated results shown for the test year shall be on a consistent basis reflecting normalized conditions to the best estimate possible. The test year shall be a forward test year, determined as follows:
 - (A) If an application is filed within the first six months of any year, the test year shall be from July 1 of the same year through June 30 of the following year; or
 - (B) If an application is filed in the last six months of any year, the test year shall be from January 1 through December 31 of the following year; and
- (4) Written direct testimony supporting its exhibits and the justification for the increase requested. [Eff] (Auth: HRS "91-2, 269-6) (Imp: HRS "91 2, 269-16)

'6-61-91

'6-61-89 Temporary general rate increase. If an applicant requests a temporary general rate increase, its written testimony and exhibits shall show probable entitlement and financial need for the temporary general rate increase, and the exhibits for the temporary general rate increase shall be prepared on a separate basis from the rate

application so that the commission will have a clear and distinct record for the temporary general rate increase proceeding. The request shall state the refund procedures to be utilized if the commission orders a refund. [Eff] (Auth: HRS "91-2, 269-6) (Imp: HRS "91-2, 269 16)

'6-61-90 Recorded test year data. The latest recorded results for the test year period shall be submitted by the applicant before the close of the evidentiary hearing. [Eff] (Auth: HRS "91-2, 269-6) (Imp: HRS "91-2, 269-16)

'6-61-91 Service of completed public utility general rate increase application. (a) A public utility applicant with annual gross revenues from its public utility business of \$2,000,000 or more shall serve six copies of its completed general rate increase application on the consumer advocate and a copy on the mayor of any county affected by the increase. The applicant shall provide proof of service when filing its application.

(b) A public utility applicant with annual gross revenues from its public utility business of less than \$2,000,000 shall serve three copies of its completed general rate increase application on the consumer advocate. The applicant shall provide proof of service when filing its application. [Eff] (Auth: HRS "91-2, 269-6) (Imp: HRS "91-2, 269-16)

'6-61-92

'6-61-92 Waiver. The commission may in its discretion modify the requirements of this subchapter, if the requirements of this subchapter would impose a financial hardship on the applicant or be unjust or unreasonable. [Eff] (Auth: HRS "91-2, 269-6) (Imp: HRS "91-2, 269-16)

'6-61-93 Motor carrier tariff changes. (a) Unless otherwise authorized by the commission, any proposed change or addition to motor carrier tariff provisions from those filed with the commission shall be filed with the commission and published thirty days before the effective date.

(b) The form and contents of the tariff filing to change or supplement any rate, fare, charge, rule, or condition from those filed with the commission shall be as specified in General Order 4 until administrative rules governing the form and content of the tariff filings are adopted and become effective. Tariffs not filed in compliance with General Order 4 will be rejected.

(c) Two copies of the tariff change filing shall be served on the consumer advocate, except where the filing is for a general rate increase, in which case six copies of the filing shall be served on the consumer advocate. The applicant shall file a certificate of service with the original filing. Additional copies may be obtained by the consumer advocate upon request. [Eff] (Auth: HRS "91 2, 269-6, 271-9) (Imp: HRS "91-2, 269-6, 271-21)

'6-61-94 Water carrier tariff changes. (a) Unless otherwise authorized by the commission, any proposed change to the water carrier tariffs on file with the commission shall be filed with this commission and published forty-five days before the effective date.

(b) The form and contents of the tariff filing to change or supplement any rate, fare, charge, rule, or condition from those filed with the commission shall be as specified in General Order 4A until administrative rules covering the form and content of the tariff filings are adopted and become effective. Tariffs not filed in compliance with General Order 4A will be rejected.

(c) Two copies of the tariff change filing shall be served on the consumer advocate, except where the filing is for a general rate increase, in which case six copies of the filing shall be served on the consumer advocate and one copy on the mayor of each county affected by the increase. The applicant shall file a certificate of service with the original filing. Additional copies may be obtained by the consumer advocate upon request. [Eff] (Auth: HRS "91-2, 269-6, 271G-7) (Imp: HRS "91-2, 269-6, 271G-17)

"6-61-95 to 100 (Reserved)

SUBCHAPTER 9

APPLICATIONS TO ISSUE STOCK
OR EVIDENCES OF INDEBTEDNESS, OR
TO ASSUME LIABILITIES

'6-61-101 Contents. (a) An application for authority to issue stock and stock certificates or bonds, notes, leverage leases, and other evidences of indebtedness payable at periods of more than twelve

months after the date thereof shall comply with sections 6-61-15 to 6-61 24 and section 6-61-74 and

'6-61-101

shall contain the following data either in the body of the application or in exhibits attached to the application:

- (1) A general description of the applicant's property and the types of public utility service it provides;
- (2) The amount and kind of stock or other evidence of interest or ownership that the applicant proposes to issue and, if preferred, the nature and extent of the preferences; the amount of bonds, notes, or other evidences of indebtedness that the applicant proposes to issue, together with terms and rate of interest, and a description of the manner in which the bonds, notes, or other evidences of indebtedness are to be secured, if at all; the amount and description of the indebtedness that the applicant proposes to assume, to the extent that information is known to the applicant at the time the application is filed;
- (3) If the issuance of securities is to be by negotiated bid rather than by competitive bid, the justification for that course of action;
- (4) Purposes for which the securities are to be issued, and:
 - (A) If for property acquisition, a detailed description thereof, the consideration to be paid, and the method of arriving at the amount;
 - (B) If for construction, completion, extension, or improvement of facilities, a description in reasonable detail, the cost or estimated cost, and any supporting study to indicate the reason or necessity for the expenditures;
 - (C) If for improvement or maintenance of service, a statement of the specific need and character of the improvements proposed and the reasons why service should be maintained from capital;

'6-61-101

(D) If for discharge or refunding of obligations, a full description of the obligations to be discharged or refunded, including the character, principal amount, applicable discount or premium, date of issue, date of maturity, rate of interest, and other material facts concerning the obligations, together with a statement showing the purposes for which the obligations were issued or the proceeds expended and the commission's decisions, if any, authorizing the incurrence of the obligations;

(E) If for reorganization or readjustment of indebtedness or capitalization or for retirement or exchange of securities, a full description of the indebtedness or capitalization to be readjusted or exchanged; complete terms and conditions of the merger, consolidation, exchange, or other reorganization; a pro forma balance sheet, if possible, giving effect to the reorganization, readjustment, or exchange; and a

statement of the reasons or necessity for the transaction; or

(F) If for reimbursement of moneys actually expended from income or from any other moneys in the treasury, a general description of the expenditure for which reimbursement is sought, the source of the expenditures, and the reason or necessity for the reimbursement; and

(5) A description of any obligation or liability to be assumed by the applicant as guarantor, indorser, surety, or otherwise, the consideration to be received by the applicant, and the reason or necessity for that action.

(b) The following exhibits shall be filed with the application:

'6-61-101

- (1) Financial statements in accordance with sections 6-61-75 and 6-61-76;
- (2) Copy of the instrument defining the terms of the proposed securities, if available, unless previously filed with the commission, in which event reference may be made to the proceeding in which it was filed;
- (3) Copy of each plan, offer, or agreement for the reorganization or readjustment of indebtedness or capitalization or for the retirement or exchange of securities, if available;
- (4) Copy of the resolution by the applicant's board of directors originally authorizing the proposed financing;
- (5) Copy of source and application of funds statement for the latest year and for each of the succeeding five years;
- (6) Statement of capital structure for latest year and for each of the succeeding five years, including notes payable as debt;
- (7) Statement showing interest coverage for the latest year and for each of the succeeding five years;
- (8) Where applicable, bond margin calculation, including pro forma figures giving effect to the proposed financing; and
- (9) Statement of all estimated expenses for issuance of securities. [Eff]
(Auth: HRS "91-2, 269 6) (Imp: HRS "91-2, 269 17)

"6-61-102 to 104 (Reserved)

'6-61-105

SUBCHAPTER 10

APPLICATIONS TO SELL, LEASE OR ENCUMBER
PUBLIC UTILITY, WATER OR MOTOR CARRIER PROPERTY OR
RIGHTS; TO MERGE OR CONSOLIDATE FACILITIES;
OR TO ACQUIRE STOCK OF ANOTHER PUBLIC UTILITY,
WATER CARRIER, OR OTHER REGULATED
COMPANY SUBJECT TO COMMISSION JURISDICTION

'6-61-105 Contents. (a) An application filed by any public utility, water carrier, motor carrier, or by other person subject to commission jurisdiction to sell, lease, assign, mortgage, or otherwise dispose

of or encumber the whole or any part of its property that is necessary or useful in the performance of its duties to the public or any franchise, permit, or any operating right, or to merge or consolidate with any other public utility, water carrier, motor carrier, or other person subject to commission jurisdiction, with or without acquisition of the capital stock of the other public utility, water carrier, motor carrier, or other person, shall comply with sections 6-61-15 to 6 61-24 and section 6 61 74 and be signed by all parties under commission jurisdiction.

(b) The application shall contain the following data, either in the body of the application or in exhibits attached to the application:

(1) A description of the character of business performed and the territory served by each applicant;

(2) A description of the property involved in the transaction, including any franchises, certificates, permits, or operative rights; and, if the transaction is a sale, lease, assignment, merger, or consolidation, a statement of the book cost and the original cost, if known, of the property involved;

(3) Detailed reasons upon the part of each applicant for entering into the proposed transaction and the facts justifying it; and

'6-61-105

(4) The agreed purchase price and the terms of payment. If merger or consolidation, the full terms and conditions thereof and compliance with any takeover law requirements.

(c) The application shall be accompanied by the following documents:

(1) In the case of a merger or consolidation, a financial statement under section 6 61-75; in the case of other transfers, the latest available balance sheet and income profit and loss statement; and

(2) A copy of the proposed deed of sale, lease, mortgage, or other encumbrance and of the contract or agreement for the sale, lease, mortgage, or other encumbrance, if any, and a copy of each plan or agreement for purchase, merger, or consolidation. [Eff] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269 18, 269-19, 271-18, 271G-14)

'6-61-106 Additional requirements for water and motor carriers. (a) In addition to the requirements in section 6-61-105, if the transaction involves a certificate, permit, or operative right of a water or motor carrier, the application shall show the following data:

(1) The territory or points served, the nature of the service, the effect of the transaction upon present operations or rights, and a certification that a copy of the application was served upon or mailed to each carrier association that represents common carriers with whom the proposed service is likely to compete. An applicant's certificate of service shall also name all other parties served; and

'6-61-111

(2) Whether the seller is a party to any through routes or joint rates or fares with any other carrier and whether operation under the rights involved is presently being conducted. If there has been any suspension or discontinuance of service during the preceding three years, the application shall state the facts and circumstances thereof.

(b) The applicant shall serve copies to additional parties and within the times as may be designated by the chairperson or hearings officer and shall file proof of service with the commission. [Eff _____] (Auth: HRS "91 2, 269 6, 271 9, 271G-7) (Imp: HRS "91-2, 269-6, 271 18, 271G 14)

"6-61-107 to 109 (Reserved)

SUBCHAPTER 11

OTHER APPLICATIONS AND TARIFF

FILINGS NOT INVOLVING RATE INCREASES

'6-61-110 Other applications. Applications relating to matters not mentioned in subchapters 7 through 10 shall comply with sections 6 61-15 to 6 61 24 and section 6-61-74. [Eff] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 269-6, 271-9, 271G 7)

'6-61-111 Public utility tariff filings. Except for tariff filings of water carriers and motor carriers that are governed by sections 6-61-93 and 6-61-94, any

'6-61-111

public utility tariff additions or changes, other than tariff additions or changes which result in an increase in rates, fares, or charges or changes in any classifications, practices, or rules which would result in an increase in rates, fares, or charges, may be filed with the commission to become effective not less than thirty days after filing. The tariff page or pages to be added or changed shall be filed with the commission, together with a transmittal letter. The transmittal letter shall set forth the applicable information specified in section 6-61-74 and section 6 61-86, together with the latest available balance sheet and income statement, the justification for the proposed additions or changes, and the proposed effective date thereof. The transmittal letter shall have attached to it a certificate of service showing service on the consumer advocate at the time of filing. Two copies of the tariff page or pages, together with the transmittal letter, shall be served on the consumer advocate. The additions or changes to the tariff, unless suspended by the commission, shall become effective thirty days after filing with the commission in compliance with this section or at a later date as may be specified in the transmittal letter. Tariff filings not in compliance with this section will be rejected. [Eff] (Auth: HRS "91 2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-16)

'6-61-112 Short notice filings. The commission may, in its discretion and for good cause shown, allow any rate, fare, charge, classification, schedule, rule, or practice to be established, abandoned, modified, or departed from upon notice less than that provided for in section 6-61-111. [Eff _____] (Auth: HRS "91-2, 269-6) (Imp: HRS "91-2, 269-16)

'6-61-119

"6-61-113 to 116 (Reserved)

SUBCHAPTER 12

POST HEARING PROCEDURES

'6-61-117 Briefs. The presiding officer may require briefs to be submitted and fix the time for filing briefs. Exhibits may be reproduced in an appendix to a brief. A brief of more than twenty pages shall contain a subject index and table of authorities. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G 7) (Imp: HRS "91-2, 269-6, 271-31, 271G 23)

'6-61-118 Oral argument. (a) The presiding officer may direct or permit oral argument, with applicant, complainant, or a respondent opening and concluding the argument. No more than one hour for each side shall be allowed for argument without special leave of the presiding officer.

(b) If more than one party is on a side, the presiding officer may grant more than one hour to that side provided the party opening the argument is given additional time to respond to each of the parties on the opposite side. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 271-31, 271G-23)

'6-61-119 Issuance of decisions and orders. A proceeding stands submitted for decision by the commission after the taking of evidence and the filing of any briefs or the presentation of any oral argument

'6-61-119

as may have been prescribed by the presiding officer. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 271-31, 271G-23)

'6-61-120 Request for draft decisions or prehearing orders. (a) Whenever the

commission requests one or more of the parties to draft an order, prehearing order, or proposed decision and order, the party or parties drafting the order, prehearing order, or proposed decision and order shall serve a copy on all other parties, and an opportunity shall be given to opposing attorneys or parties to present comments with respect thereto. The comments on the draft shall be submitted within five days of service or such other period ordered by the presiding officer.

(b) All proposed decisions and orders shall include proposed findings of fact and conclusions of law. [Eff _____] (Auth: HRS "91-2, 269 6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 271 31, 271G-23)

'6-61-121 Commission signatures. All decisions and orders shall be signed by the commissioners who heard and examined the evidence in the proceeding. A commissioner who did not hear and examine all of the evidence may sign only after the requirements set forth in section 91-11, HRS, have been complied with. If a

commissioner does not concur with the majority in a decision, that commissioner may issue a dissenting decision or sign the decision indicating that the commissioner does not concur with the majority. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91 11, 269-6, 271-9, 271G 7)

'6-61-125

'6-61-122 Service of decisions and orders. The chief clerk shall serve a decision and order of the commission to the parties, participants, or their attorneys in accordance with section 6-61-21. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 269-6, 271-31, 271G 23)

'6-61-123 Effective date. The effective date of the decision and order, unless otherwise specified in the order, is the date it is filed by the chief clerk and recorded in the commission's register. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 269-6, 271-31, 271G 23)

'6-61-124 Motion to set aside submission. After conclusion of hearings, but before issuance of a decision, a party to the proceeding may serve on all other parties and file with the commission a motion to set aside the submission and reopen the proceeding to take additional evidence. The motion shall specify the facts claimed to constitute grounds in justification of the motion, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing, and shall provide a brief description of the proposed additional evidence and an explanation why the evidence was not previously adduced. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 269-6, 271-31, 271G 23)

'6-61-125 Appeals. Appeals may be taken in the manner and in the time provided by sections 269 16(f), 271-32(e), 271-33, and 271G-24, HRS.

'6-61-125

[Eff] (Auth: HRS "269-6, 271-9, 271G 7) (Imp: HRS "91-2, 269-6, 269-16, 271-32, 271 33, 271G-24)

"6-61-126 to 128 (Reserved)

SUBCHAPTER 13

POST HEARING PROCEDURES FOR HEARINGS CONDUCTED BY HEARINGS OFFICER

'6-61-129 Recommendations of hearings officer. (a) After taking evidence, the hearings officer shall prepare a recommended decision setting forth findings of fact and conclusions of law and the reasons therefor and submit the recommended decision and order to the commission.

(b) The record shall include the pleadings, notice of hearing, motions, rulings, orders, transcript of the hearing, stipulations, documentary evidence, offers of proof, proposed findings, other documents submitted by the parties, all other matters placed in evidence, objections to the conduct of the hearing, and the report of the hearings officer.

(c) The hearings officer shall serve a copy of the hearings officer's report to all parties.
[Eff] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 269-6, 271-9, 271G 7)

'6-61-130 Exceptions to hearings officer's report and recommendations. (a) Within ten working days after service to the parties of the report of the

'6-61-131

hearings officer or such additional time as may be

allowed by the hearings officer, a party may file with the commission a brief of its exceptions to the report

and shall serve a copy of the brief on all other parties and the hearings officer.

(b) The exceptions shall:

(1) Set forth specifically the questions of procedure, fact, law, or policy to which exceptions are taken;

(2) Identify that part of the hearings officer's report and recommended order to which exceptions are made;

(3) Designate by page citation the portions of the record relied upon;

(4) Cite any authorities relied upon; and

(5) State all the grounds and reasons for exceptions to a ruling, finding, conclusion, or recommendation. Grounds not cited or specifically urged are waived. [Eff _____]
(Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 271-9, 271G-7)

'6-61-131 Brief opposing exceptions. (a) Within ten working days after being served with the exceptions taken to the hearings officer's report or within such additional time as may be allowed by the hearings officer, a party may file with the commission a brief opposing the exceptions, and shall serve a copy of the brief upon each party and the hearings officer.

(b) The brief opposing the exceptions shall:

(1) State the facts and reasons why the report and recommendations should be affirmed;

(2) Answer specifically the points of procedure, fact, law, or policy to which exceptions were taken; and

(3) Designate by page citation the portions of the record relied upon.

'6-61-131

[Eff] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269 6, 271-9, 271G-7)

'6-61-132 Oral argument before the commission. The commission may, on its own motion or on the request of any party, direct oral argument on the exceptions.

[Eff] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 269 6, 271-9, 271G 7)

'6-61-133 Commission decision. If no exceptions are filed, the commission may

approve, reverse, or modify the recommendations of the hearings officer. If exceptions are filed, upon the filing of briefs and presentation of any oral argument, the commission may render its decision upon the record or it may reopen the hearing and take further evidence or may make other disposition of the case that it deems just and reasonable. [Eff _____] (Auth: HRS "91 2, 269 6, 271 9, 271G-7) (Imp: HRS "91-2, 269 6, 271-9, 271G 7)

"6-61-134 to 136 (Reserved)

SUBCHAPTER 14

MOTIONS FOR RECONSIDERATION OR REHEARING

'6-61-137 Motion for reconsideration or rehearing. A motion seeking any change in a decision,

'6-61-139

order, or requirement of the commission should clearly specify whether the prayer is for

reconsideration, rehearing, further hearing, or modification, suspension, vacation, or a combination thereof. The motion shall be filed within ten days after the decision or order is served upon the party, setting forth specifically the grounds on which the movant considers the decision or order unreasonable, unlawful, or erroneous.

[Eff _____] (Auth: HRS

"91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269 6, 271 32, 271G-7)

'6-61-138 Effect of filing. (a) The filing of a motion for reconsideration or rehearing shall not stay a commission decision and order. However, if a motion for a stay accompanies the motion, the commission shall act on the motion for a stay promptly. If a stay is granted, the stay shall remain in effect until disposal of the motion for reconsideration.

(b) Notwithstanding the foregoing, pursuant to section 271-32(b), HRS, a commission order granting a change in motor carrier rates shall be automatically stayed upon the filing of a motion for reconsideration of the order. The stay shall remain in effect until the earlier of: the date the commission renders its decision on the motion for reconsideration or the twentieth day after the motion is filed. The commission may set aside this automatic stay for good cause shown. [Eff _____] (Auth: HRS "91 2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 269 6, 271-32, 271G 7)

'6-61-139 Additional evidence. When, in a motion filed under this subchapter, a request is made to introduce new evidence, the evidence adduced shall be stated briefly, that evidence must not be cumulative,

and an explanation must be given why that evidence was

'6-61-139

not previously adduced. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7)
(Imp: HRS "91-2, 269-6, 271-32, 271G-7)

'6-61-140 Replies to motions. The commission may allow replies to a motion for rehearing or reconsideration or a stay, if it deems those replies desirable or necessary. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 269-6, 271-32, 271G-7)

'6-61-141 Successive motions. A successive motion under this subchapter or section 6-61-124 submitted by the same party or parties and upon substantially the same grounds as a former motion which has been considered or denied by the commission shall

not be again considered. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7)
(Imp: HRS "91-2, 269-6, 271-32, 271G-7)

'6-61-142 Oral argument. Oral argument shall not be allowed on a motion for reconsideration, rehearing, or stay, unless requested by the commission or a commissioner who concurred in the decision. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-2, 269-6, 271-32, 271G 7)

'6-61-143 to 145 (Reserved)

'6-61-148

SUBCHAPTER 15

RULEMAKING PROCEEDINGS

'6-61-146 Initiation of rulemaking proceedings. (a) The commission may, at any time on its own motion, initiate proceedings to adopt, amend, or repeal any rule of the commission.

(b) Any interested person may petition the commission to adopt, amend, or repeal any rule of the commission. [Eff _____] (Auth: "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-6, 269-6, 271-9, 271G-7)

'6-61-147 Form and contents of petition. Petitions for rulemaking shall conform to the requirements of subchapter 2 and shall contain:

- (1) The name, address, telephone number, and signature of each petitioner;
- (2) A draft or substance of the proposed rule or amendment or a designation of the provisions proposed to be repealed or amended;
- (3) A statement of the petitioner's interest in the subject matter; and
- (4) A statement of the reasons in support of the proposed rule, amendment, or repeal.
[Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-6, 269-6, 271-9, 271G-7)

'6-61-148 Action on petition. (a) The commission shall, within thirty days after the filing of a petition for rulemaking, either deny the petition in writing, stating its reason for its denial, or initiate proceedings in accordance with this subchapter and with section 91-3, HRS.

'6-61-148

(b) A petition that fails in any respect to comply with this subchapter or to disclose sufficient reasons to justify the rulemaking proceeding will be denied. Denial of a petition shall not prevent the commission from acting on its own motion on any matter disclosed in the petition. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-6, 269-6, 271-9, 271G-7)

'6-61-149 Notice of public hearing. A notice of a public hearing on any proposed adoption, amendment, or repeal of a rule shall include:

- (1) A statement of the date, time, and place of the public hearing;
- (2) Reference to the authority under which the adoption, amendment, or repeal of a rule is proposed; and
- (3) A statement of the substance of the proposed rules. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-3, 269-6, 271-9, 271G-7)

'6-61-150 Conduct of public hearing. (a) The public hearing for the adoption, amendment, or repeal of rules shall be heard before the commission. The chairperson or, in the absence of the chairperson, another commissioner designated by the chairperson shall preside. The public hearing shall afford all interested persons a reasonable opportunity to submit data, views, and arguments, orally or in writing, with respect to the matters specified in the notice of public hearing. The presiding officer shall have authority to administer oaths or affirmations and to take all other actions necessary for the orderly conduct of the public hearing.

(b) Each public hearing shall be held at the time and place set in the notice of public hearing.

'6-61-152

[Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-3, 91-6, 269-6, 271-9, 271G-7)

'6-61-151 Order of public hearing. (a) To commence the public hearing, the chief clerk or the commission's counsel shall read or summarize the notice of public hearing and

the presiding officer shall outline briefly the procedure to be followed. Statements will then be received with respect to the matters specified in the notice of public hearing in the order that the presiding officer prescribes. The order of procedure may be altered in the discretion of the presiding officer.

(b) Each person shall state his or her name and address and the association, if any, that he or she represents and present a statement. The presiding officer may limit the statement to matters specified in the notice of public hearing.

(c) To allow each person an equal amount of time to testify or to prevent cumulative or unnecessary testimony, the presiding officer may limit the time for testimony by individual or by issue. Every person is subject to questioning by the commissioners or by representatives of the commission. Questions by other persons or agencies may be permitted by the presiding officer.

(d) Unless otherwise ordered by the commission, statements at the public hearing need not be reported verbatim. [Eff _____] (Auth: HRS "91-2, 269-6, 271-9, 271G-7) (Imp: HRS "91-3, 91-6, 269-6, 271-9, 271G-7)

'6-61-152 Written presentation after public hearing. Any person may submit written comments, data, views, and arguments within ten days after the close of the last scheduled public hearing date. An original

'6-61-152

and eight copies shall be submitted to the commission when submitting written comments, recommendations, replies, or exhibits. [Eff _____] (Auth: HRS "91 2, 269-6, 271-9, 271G-7) (Imp: HRS "91-3, 91 6, 269-6, 271-9, 271G-7)

'6-61-153 Lobbyists. Any person who is a lobbyist as defined under section 97-1, HRS, shall be registered as required under section 97-2, HRS. [Eff _____] (Auth: HRS "91-2, 269 6, 271 9, 271G-7) (Imp: HRS "91-2, 97-1, 97-2, 269-6, 271-9, 271G-7)

'6-61-154 Commission action. The commission shall consider all statements, views, comments, and documents of record before taking final action in a rulemaking proceeding. Unless otherwise provided by law, any decision rendered pursuant to this subchapter shall not be subject to a motion for reconsideration or judicial review. Final action shall, unless otherwise indicated, be taken within forty-five days after the time for submission of written comments or recommendations has expired. The adoption, amendment, or repeal of a rule is subject to the approval of the governor and filing with the lieutenant governor. [Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-3, 91-4, 91-6, 269-6, 271-9, 271G-7)

'6-61-155 Emergency rulemaking. Notwithstanding the foregoing, if the commission finds that emergency rulemaking is required, it may modify the procedures enumerated above, provided the requirements of sections 91-3 and 91-4, HRS, are complied with.

'6-61-161

[Eff _____] (Auth: HRS "91-2, 269-6, 271 9, 271G-7) (Imp: HRS "91-3, 91-4, 91-6, 269-6, 271-9, 271G-7)

'6-61-156 to 158 (Reserved)

SUBCHAPTER 16

DECLARATORY ORDERS

'6-61-159 Who may apply. On the petition of an interested person, the commission may issue a declaratory order as to the applicability of any statute or any rule or order of the commission. [Eff _____] (Auth: HRS "91-2, 91-8, 269 6, 271-9, 271G-7) (Imp: HRS "91-2, 91-8, 269-6, 271 9, 271G-7)

'6-61-160 Declaratory order by commission. The commission may, on its own motion or upon request and without notice or hearing, issue a declaratory order to terminate a controversy or to remove uncertainty. [Eff _____] (Auth: HRS "91-2, 91-8, 269 6, 271 9, 271G-7) (Imp: HRS "91-8, 269-6, 271-9, 271G-7)

'6-61-161 Form and contents. A petition for declaratory order must conform to the

requirements of subchapter 2 and contain the following:

(1) The name, address, signature, and telephone number of each petitioner;

'6-61-161

(2) A designation of the statutory provision, rule, or order in question, together with a statement of the controversy or uncertainty involved;

(3) A statement of the petitioner's interest in the subject matter and the reasons for submission of the petition;

(4) A statement of the petitioner's position or contention and a memorandum containing a full discussion of reasons and legal authorities in support of that position or contention; and

(5) Proof of service on the affected public utility, motor carrier, or water carrier and on the consumer advocate. [Eff _____] (Auth: HRS "91-2, 91-8, 269-6, 271-9, 271G-7) (Imp: HRS "91 2, 91-8, 269-6, 271-9, 271G-7)

'6-61-162 Commission action. (a) Within forty five days after the submission of a petition for declaratory ruling, the commission shall:

(1) Deny the petition in writing, stating the reasons for that denial;

(2) Issue a declaratory order on the matters contained in the petition; or

(3) Set the matter for hearing, as provided in subchapter 3.

(b) If the matter is set for hearing, the commission shall render its findings and decision, unless otherwise indicated at the time of the hearing, within thirty days after the close of the hearing or, if briefs are filed, thirty days after the last brief is filed.

[Eff _____] (Auth: HRS "91-2, 91-8, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 91-

8, 271-9, 271G-7)

'6-61-165

'6-61-163 Dismissal of petition. The commission may, without notice or hearing, dismiss a petition for declaratory ruling that fails to comply with the requirements of this subchapter. [Eff _____] (Auth: HRS "91-2, 91-8, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 91-8, 269-6, 271-9, 271G-7)

'6-61-164 Refusal to issue declaratory order. The commission may, for good cause, deny the petition or refuse to issue a declaratory order by giving specific reasons for that determination. Without limiting the generality of the foregoing, the commission may so refuse where:

- (1) The question is speculative or purely hypothetical and does not involve existing facts or facts that can be expected to exist in the near future;
- (2) The petitioner's interest does not give it standing to maintain an action if petitioner were to seek judicial relief;
- (3) The issuance of the declaratory order may affect the interest of the State in pending litigation or in litigation that may reasonably be expected to arise; or
- (4) The matter is not within the jurisdiction of the commission. [Eff _____] (Auth: HRS "91-2, 91-8, 269-6, 271-9, 271G 7) (Imp: HRS "91-2, 91-8, 269-6, 271 9, 271G-7)

'6-61-165 Request for hearing. Although in the usual course of disposition of a petition for a declaratory ruling no formal hearing will be held, the commission may order a hearing. Any petitioner or party in interest who requests a hearing shall state the reasons why a hearing is necessary and, to the

'6-61-615

extent that the request for a hearing is based upon

factual assertion, shall attach an affidavit establishing the facts. If the commission orders a hearing, the provisions of subchapter 3 shall govern the proceeding.

[Eff _____] (Auth: HRS "91-2, 91-8, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 91-8, 269-6, 271-9, 271G-7)

'6-61-166 Applicability of order. An order disposing of a petition for a declaratory order applies only to the factual situation described in the petition or if, a hearing is held, as set forth in the decision and order. [Eff _____] (Auth: HRS "91-2, 91-8, 269-6, 271-9, 271G-7) (Imp: HRS "91-2, 91-8, 269-6, 271-9, 271G-7)

"6-61-167 to 169 (Reserved)

SUBCHAPTER 17

FORMS

'6-61-170 Forms. The forms located at the end of this subchapter and made a part hereof, are merely illustrative as to general form. The content of particular pleadings will vary, depending upon the subject matter and applicable procedural requirements.

- (1) Appendix A - Application
- (2) Appendix B - Petition for declaratory ruling
- (3) Appendix C - Complaint
- (4) Appendix D - Answer
- (5) Appendix E - Motion
- (6) Appendix F - Notice

APPENDIX A - APPLICATION

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Application of)
)
BLANK TRANSIT COMPANY) Docket No. _____
) (chief clerk will
for (state the authorization) insert number)
sought))
_____)

APPLICATION

(state authorization sought)

VERIFICATION

AND

CERTIFICATE OF SERVICE

The application of (legal name and address of each applicant) shows that: (see sections 6-61-74 to 6-61-115)

1. Notices regarding this application are to be sent to (name, title, and address).
2. Applicant(s) (here and in succeeding paragraphs, set forth the specific facts required by the applicable rules).

WHEREFORE, Applicant(s) request(s) an order (here state clearly and concisely the specific authorization sought).

DATED: _____, Hawaii, this _____, day of _____,
19____.

BLANK TRANSIT COMPANY

By _____

Its (title of
applicant's representative)

(Verification to be completed by each applicant's representative)

STATE OF HAWAII)

) ss.

County of _____)

(Name of applicant's representative), being first duly sworn, deposes and says: That he/she is the duly appointed representative of Blank Transit Company, applicant in the above proceeding, that he/she has read the foregoing application, and knows the contents thereof; and that he/she is authorized by Blank Transit Company to verify that the contents of the application are true.

(Name of applicant's
representative)

Subscribed and sworn to before me this

_____ day of _____, 19____.

Notary Public

State of Hawaii

My commission expires: _____

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Application of)

)

BLANK TRANSIT COMPANY) Docket No. _____

) (chief clerk will

for (state the authorization) insert number)

sought))

_____)

CERTIFICATE OF SERVICE

-

-

I hereby certify that on _____, 19__, I served a copy of the foregoing (title of document), together with this Certificate of Service, by (insert method of service) to the following, at the following address(es):

Dated: Honolulu, Hawaii, _____, 19__.

(Signature of applicant, or
applicant's attorney)

APPENDIX B - PETITION FOR DECLARATORY RULING

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Petition of))

JOE DOE) Docket No. _____

) (chief clerk will

for (state the authorization) insert number)

sought))

_____)

PETITION FOR DECLARATORY RULING

VERIFICATION

AND

MEMORANDUM

Petitioner (insert legal name) states that:

1. Petitioner's address and telephone number are:
2. Communications in regard to this application are to be addressed to (name, title, and address).
3. Petitioner requests a declaratory order regarding (state the statutory provision, rule, or order and a statement of the controversy or uncertainty involved).
4. Petitioner's interest in the subject matter is
5. Petitioner's reasons for filing this petition are
6. Petitioner's position or contention is as follows:

7. A memorandum containing a full discussion of reasons and legal authorities in support of my/our position or contention is attached.

WHEREFORE, Applicant requests that a declaratory order be issued regarding (state clearly and concisely the specific issues to be determined).

DATED: _____, Hawaii, this _____, day of _____, 19____.

(Signature of each applicant)

JOE DOE

(Verification)

STATE OF HAWAII)

) ss.

County of _____)

(Name of petitioner), being first duly sworn, deposes and says: That he/she is the petitioner in the above proceeding, has read the foregoing petition, and knows the contents thereof; and that the contents of the petition are true.

JOE DOE

Subscribed and sworn to before me this
_____ day of _____, 19____.

Notary Public
State of Hawaii

My commission expires: _____

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

JOHN A. JONES,) Docket No. _____

Complainant) (chief clerk will

vs.) insert number)

)

SMITH TRANSIT COMPANY,)

a corporation,)

Respondent)

_____)

COMPLAINT

AND

VERIFICATION

Complainant (legal name) states that:

1. My/our address is
2. Respondent is (full name and address of each respondent).
3. (Here and in succeeding paragraphs, state fully and clearly acts complained of, the facts constituting the grounds for the complaint, the injury complained of, and the part of the law violated, if any.)

WHEREFORE, Complainant requests an order (state the exact relief desired).

DATED: _____, Hawaii, this _____, day of _____,
19____.

(Name of complainant)

(Verification)

STATE OF HAWAII)

) ss.

County of _____)

(Name of one complainant), being first duly sworn, deposes and says: That he/she is a complainant in the above matter, that he/she has read the foregoing complaint, and

knows the contents thereof; and that the contents of the complaint are true.

(Name of complainant)

Subscribed and sworn to before me this

_____ day of _____, 19____.

Notary Public

State of Hawaii

My commission expires: _____

APPENDIX D - ANSWER

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

JOHN A. JONES,) Docket No. _____

Complainant) (chief clerk will

vs.) insert number)

)

SMITH TRANSIT COMPANY,)

a corporation,)

Respondent)

_____)

ANSWER

VERIFICATION

AND

CERTIFICATE OF SERVICE

-

-

Respondent (legal name and address of respondent), in answer to the above complaint, states that:

1. (Here and in succeeding numbered paragraphs, admit or deny each allegation of the complaint and state any defenses.)

WHEREFORE, Respondent requests that the complaint be dismissed (or other appropriate request).

DATED: _____, Hawaii, this _____, day of _____, 19____.

SMITH TRANSIT COMPANY

By _____

Its (title of respondent's
representative)

(Verification)

STATE OF HAWAII)

) ss.

County of _____)

(Name of one of respondent's representatives), being first duly sworn, deposes and

says: That he/she is the duly appointed representative of respondent in the above matter, that he/she has read the foregoing answer, and knows the contents thereof; and that he/she is authorized by Smith Transit Company to verify that the contents of the answer are true.

(Name of respondent's
representative)

Subscribed and sworn to before me this
_____ day of _____, 19____.

Notary Public
State of Hawaii

My commission expires: _____

APPENDIX E - MOTION

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Application of _____)

)

BLANK TRANSIT COMPANY _____) Docket No. _____

) (use number

For (use caption in proceeding) assigned to

_____) proceeding)

MOTION (state nature of motion)

AND

CERTIFICATE OF SERVICE

-

-

(Name of movant) moves this Commission to (state the nature of the motion).

1. The grounds for the motion are (state facts and law which support the request).
2. The relief or order sought is
3. A hearing (is/is not) requested on the motion.

DATED: _____, Hawaii, this _____, day of _____,

19_____.

BLANK TRANSIT COMPANY

By _____

Its (title of applicant's
representative)

APPENDIX F - NOTICE

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

Notice of Intent by _____)

)

WATER CARRIER, INC. _____) Docket No. _____

) (chief clerk will

To file a general rate _____) insert number)

increase application. _____)

_____)

NOTICE

-

(Legal name and address) serves notice that:

1. Water Carrier, Inc. intends to file a general rate increase application in approximately two months (or specify exact month, if known).
2. Service is to be made on (name, title, and address).
3. Water Carrier, Inc. (here and in succeeding numbered paragraphs, state the reasons for filing the general rate increase application).

DATED: _____, Hawaii, this _____, day of _____,
19____.

WATER CARRIER, INC.

By _____

Its (title of
representative)

DEPARTMENT OF BUDGET AND FINANCE

Chapter 61, Hawaii Administrative Rules, State of Hawaii Public Utilities Commission Rules of Practice and Procedure Before the Public Utilities Commission on the Summary Page dated March 13, 1992 was adopted following public hearings held on January 7, 8, 9, 14, 15, 16, and 21, 1992 after public notice was given in The Garden Island on December 6, 1991, the Honolulu Advertiser on December 7, 1991, the Hilo Tribune Herald on December 8, 1991, and the Maui News on December 13, 1991.

These rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

YUKIO TAKEMOTO

Director of Finance

Department of Budget and

Finance

APPROVED AS TO FORM: _____

YUKIO NAITO

Chairperson

Public Utilities Commission

Deputy Attorney General

JOHN WAIHEE

Governor

State of Hawaii

Date:

Filed