

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKINGRM1-2018-01, IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO THE PUBLIC SERVICE COMMISSION'S RULES OF PRACTICE AND PROCEDURE

1. The Public Service Commission of the District of Columbia (Commission), pursuant to D.C. Official Code §§ 2-505 (2016 Repl.) and 34-802 (2012 Repl.), hereby gives notice of its final rulemaking action amending Chapter 1 (Public Service Commission Rules of Practice and Procedure) of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (DCMR), effective upon publication of this Notice of Final Rulemaking (NOFR) in the *D.C. Register*.

2. The purpose of amending Chapter 1 is to reflect new features in the Commission's electronic filing system (eDocket System), to eliminate outdated requirements, and to improve clarity. In addition, the Commission revised the rules to include proposed amendments to Section 100, Dockets and Filings, requiring electronic filing of all documents, including documents containing confidential or proprietary information, subject to certain exceptions. The Commission also deleted Section 118, Electronic Filing Procedures, in its entirety and those provisions were incorporated into Section 100.

3. On October 19, 2018, the Commission published a First Notice of Proposed Rulemaking (NOPR) in the *D.C. Register* (65 DCR 11730-11733) amending Chapter 1. A Second NOPR superseding the First NOPR was published in the *D.C. Register* (65 DCR 13381-13385) on December 7, 2018. In the Second NOPR, Subsection 100.5 has been revised in response to comments filed by the Potomac Electric Power Company seeking clarification as to whether Subsection 100.5, requiring all documents to be filed electronically, is applicable to Critical Infrastructure Information (CII).<sup>1</sup> The Second NOPR makes clear that documents containing CII shall be filed in the form of one hard copy with the Commission. No comments were filed in response to the Second NOPR.

4. By Order No. 19792, the Commission adopted the revised rules as final on January 9, 2019, with the rules becoming effective upon publication in the *D.C. Register*.

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<sup>1</sup> *RM1-2018-01, In the Matter of the Commission's Investigation Into the Public Service Commission's Rules of Practice and Procedure*, Comments of the Potomac Electric Power Company Regarding Notice of Proposed Rulemaking at 2, filed November 19, 2018.

**Chapter 1, PUBLIC SERVICE COMMISSION RULES OF PRACTICE AND PROCEDURE, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended as follows:**

**Section 100, DOCKETS AND FILINGS, is amended in its entirety to read as follows:**

- 100.1 The Office of the Commission Secretary shall maintain the official docketing system for the Commission.
- 100.2 The docketing system shall contain records and documents available for public inspection. Public inspection may be either on the Commission’s website or in person at the Office of the Commission Secretary during normal office hours. Confidential or proprietary records and documents are not available for public inspection. The rules governing confidential or proprietary records and documents are contained in Section 150. Access to all filings in the Office of the Commission Secretary is subject to reasonable limitations, including extraordinary circumstances, or when inspection would interfere with the normal operation of the Office of the Commission Secretary. Persons requesting copies of any filing or other written matter within the possession and/or custody of the Commission from the Office of the Commission Secretary may be subject to a per page copying fee.
- 100.3 All documents filed with the Commission shall be addressed to the Commission Secretary and filed with the Office of the Commission Secretary.
- 100.4 The Commission shall be open each business day except Saturdays, Sundays, and legal holidays, from 9:00 a.m. to 5:30 p.m.
- 100.5 All documents shall be filed electronically, including documents containing confidential or proprietary information, with the exception of documents containing “critical infrastructure information” (CII) and documents filed on electronic storage devices such as flash drives or compact disks (CDs). Documents containing CII must be filed with the Commission as one hard copy and shall clearly state in bold, capitalized letters that the filing contains CII. Documents filed on electronic storage devices shall include a table of contents, list of the data, or other description of the data stored on the device. To file documents electronically with the Commission, filers must first complete an online registration form on the eDocket System.
- 100.6 All filings shall comply with the requirements set forth in the Commission’s rules and shall be accompanied by a cover letter indicating the title of the document or type of filing; the case or docket number and caption, if already assigned; and the name, street address, e-mail address, and telephone number of the person making the filing.

- 100.7 The Commission may, at any time, reject all or any part of a filing that does not conform with the requirements of the Commission's rules under this chapter. If any filing, or part thereof, is rejected, the document or the part thereof will be deemed not to have been accepted for filing with the Commission.
- 100.8 When a confidential or proprietary document is filed, the corresponding public version shall be filed concurrently.
- 100.9 All documents filed electronically shall be considered filed when the Commission has received the electronic filing, consistent with Subsection 100.10, unless the electronic filing has been rejected under Subsection 100.12.
- 100.10 Documents may be filed electronically twenty-four (24) hours a day, seven (7) days a week. All documents filed electronically shall be considered as timely filed and will be docketed, consistent with Subsection 100.9, if filed by 5:30 p.m. If a filing is received after 5:30 p.m. on a business day or at any time on a non-business day, it shall be docketed on the next business day.
- 100.11 Persons that file documents electronically shall receive an electronic acknowledgment of their filing from the Office of the Commission Secretary once file transmission is complete.
- 100.12 After reviewing an electronic filing to ensure that it meets the Commission's electronic filing requirements, the Office of the Commission Secretary shall send a notice of acceptance or a notice of rejection. If the filing does not meet the Commission's requirements, then the Office of the Commission Secretary shall send a notice of rejection explaining the reason(s) for rejection.

**Section 113, FORM OF FORMAL PLEADINGS, is amended in its entirety to read as follows:**

**113 FORM OF FILINGS**

- 113.1 All electronic filings shall be word-processed or otherwise electronically entered on a page sized 8 ½ inches wide and 11 inches long in font size of not less than 11 points, unless a larger size page format is required.
- 113.2 The cover page of each confidential or proprietary document shall indicate that the filing contains confidential or proprietary information. Each confidential or proprietary document filed shall have clearly marked “[**BEGIN CONFIDENTIAL**]” in bold capital letters at the beginning of each portion or section of the document containing such confidential or proprietary information and “[**END CONFIDENTIAL**]” in bold capital letters at the end of each portion or section of the document containing such confidential or proprietary information. All other material in each and every portion or section of such document shall be treated as non-confidential and non-proprietary and available

for public use and review. Redacted public versions of confidential or proprietary filings shall also be filed consistent with Subsections 100.6 and 100.8. The pagination, numbering and other formatting features of the redacted filings shall be identical to those features in the confidential or proprietary filings. The beginning and the ending of all confidential or proprietary matters redacted from the public versions shall be clearly identified on each and every page of that public version as set forth in this subsection.

- 113.3 Consistent with Subsection 100.7, the Commission may reject any filings that do not conform to the requirements of this section.

**Section 118, ELECTRONIC FILING PROCEDURES, is deleted in its entirety.**

**Section 150, CONFIDENTIAL AND PROPRIETARY INFORMATION, is amended as follows:**

**Subsection 150.5 is amended to read as follows:**

- 150.5 If any party uses confidential or proprietary information in filings, such as briefs, comments, testimony, exhibits, data responses, cross-examination or other documents, to be filed in a proceeding in which the information is obtained pursuant to a confidentiality or proprietary agreement, the following shall apply:
- (a) A confidential version of the filings containing the alleged confidential or proprietary information shall be filed, consistent with Sections 100 and 113 of these rules, with the Office of the Commission Secretary;
  - (b) Direct or cross-examination by any party involving information which another party alleges to be confidential or proprietary shall be conducted during proceedings which shall be closed to all those who have not signed an appropriate proprietary or confidentiality agreement; provided, that there has been no prior Commission determination that such information is not confidential or proprietary. Two transcripts of the proceeding shall be prepared and filed with the Commission Secretary; one that shall include the confidential or proprietary information and one that shall exclude the confidential or proprietary information. The Office of the Commission Secretary shall maintain the transcript of the proceeding containing the confidential or proprietary information as confidential; and
  - (c) If any party challenges the appropriateness of a claim that information is confidential or proprietary, the procedures set forth under Subsection 150.7 of this chapter shall apply.

**Section 199, DEFINITIONS, is amended as follows:**

**The following definitions in Subsection 199.1 are added to read as follows:**

**Docket** – the Commission’s formal record of a proceeding, including the filings.

**File** – to submit a filing to the Office of the Commission Secretary, utilizing the “eDocket” system available through the Commission website at [www.dcpsec.org](http://www.dcpsec.org), for the purpose of having that filing entered upon the docket of a proceeding.

**Party** – a person who appears in and has a direct interest in a proceeding before the Commission. Persons may become parties to proceedings by virtue of filing an application, complaint, or petition initiating the proceeding; by filing a response to an application, complaint, or petition; by statutory right; or by Commission authorization, such as the granting of a petition for intervention.