

**KANSAS CITY, KANSAS
BOARD OF PUBLIC UTILITIES**

**RULES OF PROCEDURE
FOR
PUBLIC HEARING ON RATE INCREASES**

REVISED 2016

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ARTICLE I

PREFACE

The following rules of procedure (hereinafter referred to as “Rules”) before the Kansas City, Kansas Board of Public Utilities (hereinafter referred to as the “Board”) were promulgated and adopted by the Board on April 15, 1981, and revised from time to time, including as approved on August 17, 2016. These Rules are issued under the authority contained in Charter Ordinance No. CO-5-01, as may be amended and supplemented from time to time (the “Charter Ordinance”) of the Unified Government of Wyandotte County/Kansas City, Kansas (the “Unified Government”). These Rules apply to rate consideration proceedings conducted pursuant to the Charter Ordinance.

The purpose of these Rules is to govern the proceedings which are required for the consideration of utility rate increases for water and/or electricity.

Nothing in these Rules limits, modifies or changes the existing procedures of the Board at its regular sessions pursuant to the Charter Ordinance, the laws of the State of Kansas and the General Rules and Regulations of the Board of Public Utilities of Kansas City, Kansas.

It is the policy of the Board that records and prepared studies and analyses of its operations which are relevant to the rate considerations are open to public inspection upon reasonable request. However, accounts of individual customers are the private and confidential information of the customer which will not be released without the notarized written consent of the customer.

All communications should be addressed to the Office of the Secretary of the Board (or other BPU office as indicated by the BPU in connection with a rate hearing proceeding), Board of Public Utilities, 540 Minnesota Avenue, Kansas City, Kansas 66101.

ARTICLE II

CODE OF ETHICS

Any person who signs any filing, petition, motion or brief, appears at a proceeding, or transacts business with the Board or its designated Hearing Officer in the rate hearing proceeding agrees to comply with the laws of this state and these Rules; to maintain due respect to the Board or its Hearing Officer; and never to mislead the Board or its Hearing Officer or BPU staff by an artifice or false statement of fact or law. Any person who, on behalf of another interest or interests, signs any filing, petition, motion or brief, appears at a proceeding or transacts business with the Board, the Hearing Officer or BPU staff, by such act represents that he or she is authorized to do so. Any person violating these Rules may be excluded, at the discretion of the Hearing Officer, from the rate hearing, and any presentation, written or oral testimony made in violation of these Rules may be stricken from the record in the Proceeding.

ARTICLE III

DEFINITIONS

As used in these Rules:

A. “Board” means the Board Members of the Kansas City, Kansas Board of Public Utilities.

B. “BPU” means the Kansas City, Kansas Board of Public Utilities and its staff serving Kansas City, Kansas.

C. “Customer” means any person, entity, state or federal agency to which electric energy or water is sold by BPU.

D. “Hearing Officer” refers to the Board President or any person designated by the Board to preside at a Proceeding.

E. “Intervenor” means any affected utility customer who intervenes in the Proceeding and presents testimony of witnesses under oath, conducts cross-examination of employees and representatives of the BPU, presents oral argument and files written briefs in support of such utility customer’s position.

F. “Limited Appearance” means an appearance at which a person other than an Intervenor may present a written statement or make an oral statement of position.

G. “Party,” solely for purposes of these Rules, means BPU staff or any Intervenor who has been granted status as a Party, but excludes any person making a Limited Appearance. This definition is not intended to alter, and shall not be deemed to alter, the definition of “Party” contained in the Charter Ordinance and the rights and obligations of such a “Party” as set forth in the Charter Ordinance.

H. “Person” means an individual, corporation, governmental agency, association, partnership, or any other legal or commercial entity.

I. “Proceeding” means a public hearing on a utility rate increase under Kansas law of which notice to the public and to Customers is given, is open to the public and is conducted pursuant to these Rules.

J. “Writing” means electronic writing, handwriting, typewriting, printing, photostating, photographing, and every means of recording, including letters, words, pictures, sounds or symbols, or any combination thereof, and all papers, maps, magnetic or punch cards, discs, drums, or other forms of recorded communication.

ARTICLE IV

NOTICE REQUIREMENTS

Notices to Public: Notices of a Proceeding, when given for the purpose of informing the public of proposed rate increases, shall:

(1) Be given by publication in a newspaper(s) of general circulation in Kansas City, Kansas, not less than ninety (90) days prior to commencement of the Proceeding. Additional means may be adopted by the Board to notify the public of the Proceeding.

(2) Include the time and place of the public hearing and the amount of the proposed rate increase.

ARTICLE V

REQUIREMENTS FOR ALL FILINGS

Section A. Form and Size: All documents tendered for filing with the Board shall be in Writing. Written documents shall be on one side of the paper only and shall be double spaced, except that footnotes and quotations may be single spaced. Multipage documents shall be bound or stapled on the left side. Reproductions may be made by any process, provided all copies are clearly and permanently legible. All pleadings filed with the Board by or on behalf of an Intervenor shall be signed by the Intervenor or its legal counsel and include the Intervenor's name and address, and if applicable the legal counsel's name and address.

Section B. Title: All documents presented for filing with the Board shall show the caption for the Proceeding and title of the document.

Section C. Copies: There shall be filed with the Board an original and three conformed copies of petitions to intervene and motions for compliance with discovery if said motions are filed. Unless otherwise provided, there shall be an original and one copy of all other documents submitted for filing with the Board.

Section D. Filing Method: Unless otherwise provided, all documents submitted for filing with the Board shall be filed at the Office of the Secretary of the Board, Board of Public Utilities, 540 Minnesota Avenue, Kansas City, Kansas 66101. Filings may be made by mail by enclosing the document in a sealed envelope addressed as above and depositing it with the United States Postal Service with first class postage prepaid. Documents may be signed and filed electronically by electronically submitting the document to such email address as indicated by the BPU in connection with a Proceeding. All documents filed electronically shall include the words "Filed Electronically" on the first page of the document.

Section E. Time of Filings for Formal Docket: Filings will be accepted for docketing if such filings are received at the Office of the Secretary of the Board or other BPU office as indicated by the BPU in connection with a Proceeding on or before 5:00 P.M. on the date such filing is due.

Filings tendered by mail after said due date which are postmarked at least two days prior to the due date for filing will be accepted for docketing if received no later than one day following the due date. Filings tendered by express mail with guaranteed one day delivery will be accepted for docketing if they are tendered by express mail with guaranteed one day delivery and mailed at least one day prior to the due date. Filings tendered electronically are deemed filed at the time received by the BPU.

Section F. Service of Process – Method of Service: All filings, documents, communications, notices, or demands as between Intervenors, shall be served as follows: (a) Service may be provided by mail by enclosing the document(s) in a sealed envelope deposited with the United States Postal Service with first class postage prepaid on or before the time specified for service, provided that such document is received as provided in Section E above; (b) Service may be provided by mailing the document(s) by express mail with guaranteed one day delivery on or before the time specified for service, provided that such document is received as provided in Section E above; (c) Notwithstanding the provisions of (a) and (b) above, service may be provided by personal delivery of the document(s) to a Party or at such Party's mailing address on or before the time specified for service.

Section G. Computation of Time: Unless otherwise provided, when the period is stated in days, exclude the day of the event that triggers the period, count every day, including intermediate Saturdays, Sundays and legal holidays, and include the last day of the period. If the last day of the period is a Saturday, Sunday or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday or legal holiday.

ARTICLE VI

PARTIES TO THE PROCEEDING

Section A. Requirements for Intervention: All affected Customers may file a petition to intervene. Petitions to intervene should be filed with the Office of the Secretary of the Board or other BPU office as indicated by the BPU in connection with a Proceeding.

Section B. Petitions to Intervene; Form: The petition to intervene shall be in writing; shall set forth the name, address and telephone number of the person to whom communications regarding the petition are to be sent; shall identify the Parties to the petition and their interests in the Proceeding; shall state the position of the Parties with respect to the proposed rate increase; and shall set forth in summary form the representations the Parties expect to make at the Proceeding regarding the issues to be presented therein. Petitions to intervene shall comply with the requirements of filings set forth in Article V. (See, e.g., Appendix A, attached hereto.) The Hearing Officer in special cases and on a showing of good cause may waive any requirement of this rule; provided that consent by BPU to an extension of time to file a petition to intervene as described in the following paragraph is a requirement for such extension.

Petitions to intervene must be filed not less than seventy (70) days prior to the scheduled date for commencement of the Proceeding, unless the BPU agrees to a request by a Customer for an extension of time to file a petition to intervene.

Section C. Rulings on Petitions to Intervene: Leave to intervene will be granted to any affected Customer or such person's authorized representative that files a timely petition to intervene.

Section D. Intervenors: Formal participation in the Proceeding shall be limited to BPU staff and to Intervenors and others who have been granted status of being a Party and who shall have the full rights and duties of active participation. Intervenors and Parties shall have, but not necessarily be limited to, the following rights: to present testimony, to cross examine employees and representatives of the BPU, to present oral argument and file written briefs, and to ask, at the discretion of the Hearing Officer, clarifying questions of participants without intervention. The duties of Intervenors include, but are not necessarily limited to, the following: to file a timely petition to intervene, to provide other Intervenors and Parties with exhibits, names of witnesses, and summaries of proposed testimony prior to the Proceeding, to provide to other Intervenors and Parties, upon request, information relevant to the issue to which his or her intervention relates, to attend preliminary conferences which may be held by the Hearing Officer, and to be present for the entire Proceeding(s) on the matter(s) on which he or she is intervening.

Section E. Limited Appearances: In any Proceeding, written comments may be submitted, or an appearance may be made without filing a formal petition, if there is full disclosure of the identity of the presenter and of the persons or entities in whose behalf the appearance or comments are to be made, if the interests and positions of such persons or entities are stated fairly, and if the contentions are relevant to the issues presented in the Proceeding. Persons making Limited Appearances may be asked clarifying questions, as permitted by the Hearing Officer, by Parties only; and, persons making Limited Appearances do not have a right to advance distribution of testimony and exhibits, or a right to question or cross examine Parties or Intervenors.

All comments submitted by persons making Limited Appearances shall be included in the record of the Proceeding for consideration by the Board. For this purpose, they are encouraged, though not required, to submit written copies of their comments prior to or immediately following the verbal presentation.

A person or entity in whose behalf a Limited Appearance is made in this manner may participate in the Proceeding to the degree indicated by the Hearing Officer.

Section F. Hearing Officer - Duties, Responsibility and Authority: The Hearing Officer shall apply and enforce these Rules and shall make any determination of construction or interpretation thereof as may be necessary to assure that the substantive rights of the Parties are preserved and protected. He or she shall conduct the course of the Proceeding efficiently and expeditiously so that a clear and concise record of evidence in the Proceeding shall be developed. He or she shall, upon request of the Board, furnish it with a summary of the evidence of the record in any Proceeding; and, at the request of the Board or any Board Member, shall provide assistance as requested by the Board in the preparation of a written decision setting forth a determination by the Board.

The Hearing Officer may set dates of proceedings, and control the course thereof; administer oaths; receive evidence; examine and call witnesses; hold appropriate conferences

before or during proceedings; rule on all objections, motions and petitions; receive offers of proof; hear arguments and fix the time for proceedings and filings of briefs and written comments. He or she may take such other action as may be necessary and appropriate to the discharge of his or her duties consistent with the laws of the State of Kansas.

To avoid unnecessary cumulative or repetitive evidence, the Hearing Officer may limit the number of witnesses or the time for testimony upon a particular issue.

Section G. Rulings by the Hearing Officer: Rulings by the Hearing Officer on the admissibility of evidence, all objections and motions, including but not limited to motions for continuance, motions for compliance with discovery, postponement, or extension of time are subject to review, modification or reversal by the Board.

ARTICLE VII

ACCESS TO INFORMATION

Section A. Preliminary Conference: The Hearing Officer may hold a preliminary conference for the purposes of formulating or simplifying the issues, arranging for the delivery or exchange of proposed exhibits, witnesses, or summaries of testimony, limitation of number of witnesses, and such other matters as may expedite orderly conduct and disposition of the Proceeding.

Section B. Exchange of Evidence: Except as may be provided at a preliminary conference or by directive set forth by the Hearing Officer, pre-filed testimony, proposed exhibits, witnesses, and summaries of testimony shall be filed with the Office of the Secretary of the Board or other BPU office as indicated by the BPU in connection with a Proceeding and served upon all the Parties in the Proceeding as follows:

(1) The BPU shall make available all pertinent financial data, supporting documents, and analysis relating to the rate increase on the date the public notice of the Proceeding is issued.

(2) BPU staff shall file the initial pre-filed written testimony of BPU staff and consultants when available, and is expected, but not required, to file such pre-filed written testimony not less than seventy (70) days prior to the scheduled date for commencement of the Proceeding.

(3) Intervenors shall file and serve, in accordance with Section F of Article V, pre-filed testimony, proposed exhibits, proposed witnesses, and summaries of testimony other than pre-filed testimony not less than thirty (30) days prior to the date scheduled for the Proceeding; provided, however, that the time limit may be extended upon agreement of the BPU.

(4) BPU staff may file rebuttal testimony, which if filed is expected but not required to be filed not less than ten (10) days prior to the date scheduled for the Proceeding.

This Rule shall apply to Intervenors only and not to persons making Limited Appearances.

Section C. Discovery: All discovery shall be pursuant to the provisions of Article VII of these Rules. No subpoenas or orders for the taking of formal depositions shall be issued.

Section D. Informal Discovery: Any Intervenor in a Proceeding shall have access to information available to other Intervenors to the Proceeding if such information is relevant to the issues to which his or her intervention in such Proceeding relates. BPU staff shall have access to information available to an Intervenor in a Proceeding if such information is relevant to the issues to which such Intervenor's intervention in such Proceeding relates. No Intervenor shall deny any such information or data in his or her possession to another Intervenor or to BPU staff upon reasonable request or demand of the latter. Any artifice or design by an Intervenor intended to forestall a Party from being able to obtain or make use of such information or data at the Proceeding is inconsistent with the requirements of the Code of Ethics prescribed in Article II, and the Intervenor may be subject to the Sanctions prescribed therein. It is expected that Parties will make their requests informally upon another Party as early as possible, and in no event later than the time required for a formal discovery request, in order to permit the responding Party ample time to collect the information and data requested.

Section E. Formal Discovery: The remaining Sections in this Article provide a formal means for enforcing the right of an Intervenor to obtain information and data from BPU or from another Intervenor or for BPU staff to obtain information and data from an Intervenor upon reasonable demand. However, formal discovery rights will not be granted unless it is demonstrated that reasonable and timely efforts were made to secure discovery informally pursuant to Section D.

Section F. Formal Demand for Information: Formal demand for information or data, or for inspection of documents from a Party shall be in writing, showing good cause for the production of the matters described in such demand, specifying the exact matters desired to be produced or inspected, setting forth in full detail the relevance thereof to the issues involved in the Proceedings, and stating that the Party being served has the desired matters in his or her possession or under his or her control. Such demand shall be personally served upon the Party on whom demand is made or delivered to the designated mailing address or electronic delivery address, and a copy thereof shall be filed with the Office of the Secretary of the Board or other BPU office as indicated by the BPU in connection with a Proceeding.

Section G. Timeliness for Formal Demand: Timely demand upon BPU staff shall be made not less than sixty (60) days prior to the scheduled date of the Proceeding; provided, however, that the time limit may be extended upon agreement of the BPU.

Timely demand upon any Intervenor shall be made not less than thirty (30) days prior to the scheduled date of the Proceeding; provided that such demand shall be timely if made within ten (10) days after such Intervenor files its testimony pursuant to Section B (3) above even if less than thirty (30) days prior to the scheduled date of the Proceeding. However, upon good cause being shown the Hearing Officer may grant leave to file formal discovery requests described in this paragraph after the time provided herein.

Section H. Timeliness to Provide Information: A Party shall endeavor to provide a response to a reasonable and timely formal discovery demand within twenty (20) days of the demand. Data, information or inspection reasonably and timely demanded of BPU staff shall be provided to the Intervenor making such reasonable and timely demand during regular business hours not less than seven (7) days prior to the scheduled date of the Proceeding, subject to Section I below. Data, information or inspection reasonably and timely demanded of an Intervenor shall be provided to the Party making such demand during regular business hours not less than seven (7) days prior to the scheduled date of the Proceeding, subject to Section I below.

Section I. Inability to Comply with Discovery: If a Party has been served with a reasonable and timely demand with which he or she cannot comply within the time prescribed in Section H, he or she shall notify the requesting Party personally or by telephone as soon as possible and in any event no later than the applicable date set forth in Section H, and concurrently shall in Writing set forth the facts and circumstances which prevent such compliance in a communication delivered to the designated mailing address or electronic delivery address of the requesting Party, and shall file a copy with the Office of the Secretary of the Board or other BPU office as indicated by the BPU in connection with a Proceeding and with the Hearing Officer.

Section J. Hearing for Compliance with Discovery: A Party who has been denied information or data demanded under these Rules may request a hearing by the Hearing Officer, by stating that the information, data or inspection demanded will not be provided within the time prescribed in these Rules, and notifying the Party upon whom the demand was made and the Hearing Officer personally or by telephone of the request for a hearing.

Section K. Ruling on Motion for Compliance: The Hearing Officer shall have the authority to grant or deny any request for a hearing, subject to the provisions of these Rules. The Hearing Officer, after investigation, review of the pleadings, and the hearing of oral arguments, if any, shall rule on the motion for compliance with discovery and shall notify the Parties concerned by telephone or in Writing of such ruling. Any such ruling is subject to review, modification or reversal by the Board as provided in Article VI, Section G above. Failure by any Intervenor to comply with a ruling or order of the Hearing Officer, or of the Board, is inconsistent with the Code of Ethics prescribed in Article II, and the Intervenor may be subject to the sanctions prescribed therein.

ARTICLE VIII

PROCEEDINGS AND DOCKETS

Section A. Secretary's Formal File: The Board Secretary or his or her delegate shall maintain a file of documents filed pursuant to these Rules which shall be open for public inspection during normal business hours between 8:00 A.M. and 5:00 P.M. Monday through Friday, at 540 Minnesota Avenue, Kansas City, Kansas 66101.

Section B. Rejection of Documents: Documents which are not in substantial compliance with these Rules, Board directives or applicable laws and statutes may be rejected. If rejected, such documents will be returned with an indication of the deficiencies therein. Tendered documents which have been rejected shall not be entered upon the docket. Acceptance of a document for filing shall not be construed by any Party as a determination that the document complies with all requirements of the Board, and is not a waiver of such requirements. The Board, the Secretary of the Board or his or her designee or the Hearing Officer may require amendments of a document.

Section C. Opening: At the opening of the Proceeding, the Hearing Officer shall introduce or caused to be introduced for the record the public notice of the Proceeding and proof of its publication. The Hearing Officer shall also name for the record the Intervenors. The Hearing Officer shall name for the record the persons making Limited Appearances, as such persons speak.

Section D. Order of Presentation: Subject to the discretion of the Hearing Officer, the order of presentation shall be as follows:

PUBLIC PORTION OF PROCEEDING

- (1) Opening statements by Parties (as to any Party in attendance at the Public Portion of the Proceeding).
- (2) BPU staff presentation.
- (3) Limited Appearances.

TECHNICAL PORTION OF PROCEEDING

- (4) BPU staff presentation and presentation of reports by consultants.
- (5) Presentations by Intervenors.
- (6) BPU and/or Intervenors rebuttal.

The Hearing Officer may set reasonable time limits for oral statements and presentation of documents, and may exclude or limit cumulative, repetitious or immaterial evidence.

Section E. Record of Proceeding: A record of the Proceeding shall be kept by a court reporter or by a reliable recording device, and a written transcript of such Proceeding, in whole or in part, shall be made available at the cost of reproduction.

ARTICLE IX

EVIDENCE

Section A. Form and Admissibility: Although technical rules of evidence need not be applied, the substantive rights of the Parties shall be preserved.

Section B. Objections: When objections or motions to strike are made to the admission or exclusion of evidence, the grounds relied upon shall be stated briefly. Formal objections to rulings are unnecessary and need not be taken.

Section C. Offer of Proof: An offer of proof for the record shall consist of a statement of the substance of the evidence to which objection has been sustained. The Hearing Officer may ask an Intervenor to summarize such Intervenor's proposed testimony so that the Hearing Officer may determine whether the testimony is appropriate.

Section D. Witnesses: Witnesses shall testify under oath or affirmation. At the time of testifying the witness shall have in his possession and available for inspection any Writing upon which his testimony relies.

Section E. Documentary Evidence: If relevant and material matter in evidence is included in a document containing other matters, the Party offering it shall designate specifically the portion so offered. If other matter in the document would unnecessarily encumber the record, the document will not be received in evidence. However, the Hearing Officer may authorize a copy of the relevant and material portion of the matter to be received as an exhibit. Other Parties shall be afforded opportunity to examine the entire document and to offer in evidence copies of other portions thereof believed to be relevant and material.

ARTICLE X

RULES

These Rules shall be liberally construed to secure just, speedy and inexpensive determination of the issues presented. In special cases and for good cause shown, the Hearing Officer may permit deviations from the Rules. Rules may be amended, revoked or modified at any time by the Board without notice.

ARTICLE XI

BOARD DETERMINATION

A. Decision: Within five (5) days after the completion of the public hearing, the Board shall fix such rates as it deems justified pursuant to its findings and the evidence presented at the public hearing.

B. Service of Board Determinations: Board determinations shall be made available for public inspection in the Board Secretary's file of the proceedings (Section E of Article VIII). Board determinations shall be served on the Intervenors in the Proceeding by the Secretary of the Board or his or her designee by mail. Service pursuant to this Rule may also be accomplished by personal delivery of a copy.

ARTICLE XII

CONTINUANCES

The Proceeding may be continued from time to time by the Hearing Officer or the Board until all Parties and persons making Limited Appearances have had an opportunity to make their relevant presentations and until the Board has had an opportunity to make its determinations.

APPENDIX A

JOHN Q. ATTORNEY
SMITH, SMITH, AND SMITH, INC.
1234 5th Street
Kansas City, Kansas

(913) 123-4567

ATTORNEY FOR ABC COMPANY

KANSAS CITY, KANSAS BOARD OF PUBLIC UTILITIES

RATE HEARING

PETITION TO INTERVENE

The ABC Company hereby notices its intention to intervene in the Kansas City, Kansas Board of Public Utilities rate increase hearing.

The ABC Company is a utility customer of the Kansas City, Kansas Board of Public Utilities.

It is the position of the ABC Company that the Kansas City, Kansas Board of Public Utilities should/should not adopt the proposed rate increase. In its intervention the ABC Company will show that:

- 1.
- 2.
- 3.

These Rules of Procedure for Public Hearing on Rate Increases are hereby approved as of September 26, 2016.

BOARD OF PUBLIC UTILITIES OF THE
CITY OF KANSAS CITY, KANSAS

By: Don L. Gray
Don L. Gray, General Manager

Approved as to Form:

Kathryn P. Peters
Attorney for the Board of Public Utilities
Kathryn P. Peters, Kutak Rock LLP