

**LOUISIANA PUBLIC SERVICE COMMISSION**

**GENERAL ORDER**

**LOUISIANA PUBLIC SERVICE COMMISSION**

**EX PARTE.**

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**In re: Amendment to Rule 56 of the Rules of Practice and Procedure of the Louisiana Public Service Commission.**

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(Decided at the January 19, 2000 Business and Executive Session)

At the January 19, 2000 meeting of the Louisiana Public Service Commission, proposed revision to Rule 56(a) of the Rules of Practice and Procedure (ARules@) of the Louisiana Public Service Commission were considered. The purpose of the amendment is to assure that all parties to a proceeding are treated equally and to create an environment at the Commission=s Business and Executive Sessions such that the Commission may be fully informed of the facts of contested cases without the necessity of re-trying the entire case. Pursuant to the current Rules, the Commission has the power and discretion to grant and/or deny oral argument, and to set time limitations on such oral argument. Therefore, this amendment merely clarifies the Commission=s powers. Following discussion, and upon motion by Commissioner Sittig, seconded by Commissioner Owen and unanimously adopted, the Commission voted to amend Rule 56(a) of the Rules of Practice and Procedure of the Louisiana Public Service Commission. Rule 56 (b-d) shall remain unchanged.

Accordingly, it is ORDERED that the revised version of Rule 56 which is attached hereto as Attachment AA@ shall be incorporated into the Rules of Practices and Procedures of the Louisiana Public Service Commission.<sup>1</sup> Rule 56(b-d) of the Rules shall remain unchanged.

IT IS FURTHER ORDERED that the rule provided in Attachment AA@ to this Order shall become effective immediately upon the date of issuance of this order.

**BY ORDER OF THE COMMISSION**

**BATON ROUGE, LOUISIANA**

February 22, 2000

/S/ IRMA MUSE DIXON  
DISTRICT III  
CHAIRMAN IRMA MUSE DIXON

/S/ JAMES M. FIELD  
DISTRICT II  
VICE CHAIRMAN JAMES M. FIELD

/S/ DON OWEN  
DISTRICT V  
COMMISSIONER DON OWEN

/S/ C. DALE SITTIG  
DISTRICT IV  
COMMISSIONER C. DALE SITTIG

/S/ LAWRENCE C. ST. BLANC

SECRETARY  
LAWRENCE C. ST. BLANC

/S/ JACK AJAY@ A. BLOSSMAN  
DISTRICT I  
COMMISSIONER JACK AJAY@ A. BLOSSMAN

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<sup>1</sup>The entire text of Rule 56 is set out at Attachment-A and attached hereto and made a part hereof. The added and changed portions are indicated in underlined italics.

ATTACHMENT AA@  
TO GENERAL ORDER DATED FEBRUARY 14, 2000  
OF THE LOUISIANA PUBLIC SERVICE COMMISSION

**Rule 56: Procedure for Review of Recommendations Regarding Final Determinations.**

- (a) Except as is provided in subparts (b),(c), and (d) of this Rule, the preparation and review procedure for a recommendation regarding a final determination in a proceeding is as follows:
- (1) At the conclusion of the taking of any evidence and testimony on the matter to be decided and after consideration of the evidence and testimony and any pertinent authority, the administrative law judge shall prepare a written *proposed* recommendation of final determination. Unless the nature of the proceeding necessitates a different format and substance, the *proposed* recommendation shall contain a summary of the allegations or application, pertinent legal authority and factual background, a review of the procedural history of the matter, findings of fact, conclusions of law and the recommended determination. The *proposed* recommendation shall be filed into the record, with copies contemporaneously mailed by the Administrative Hearings Division to all parties of record.
  - (2) Within fifteen (15) days of the filing of the *proposed* recommendation, any party may file into the record an exception to the *proposed* recommendation. The exception shall be in the form of a legal memorandum, and shall contain a statement of errors, pertinent legal authority, and references to the record in the proceeding, as appropriate. The exception shall not make reference to evidence of any kind which is not already a part of the record, except that a party may argue as to evidence tendered but excluded (offers of proof).
  - (3) If no party timely files an exception to the *proposed* recommendation, the recommendation shall become a *final* recommendation and shall be immediately forwarded to the Commissioners for consideration and for vote.
  - (4) If an exception to the *proposed* recommendation is timely filed, any party wishing to oppose the exception shall have fifteen (15) days from the filing of the exception in which to file an opposition memoranda into the record. The opposition memoranda shall address the statement of errors contained in the exception and shall include pertinent legal authority and references to the record in the proceeding, as appropriate. The opposition memoranda shall not include references to evidence of any kind which is not already a part of the record, except that a party may argue as to evidence tendered but excluded (offers of proof).
  - (5) At the conclusion of the time period for filing opposition memoranda to timely filed exceptions, no further briefing shall be allowed, except with the consent of the administrative law judge or by vote of the Commissioners.
  - (6) After reviewing any timely filed exception and opposition memoranda, the administrative law judge shall prepare a *final* recommendation. The *final* recommendation shall contain the elements described in subpart (a)(1) of this Rule.
  - (7) At the time the *final* recommendation is filed into the record, copies of the *final* recommendation shall be forwarded to the Commissioners and mailed to all parties of record.
  - (8) Upon submission of the *final* recommendation is filed into the record, copies of the *final* recommendation shall be forwarded to the Secretary for placement on the Commission meeting agenda for vote by the Commissioners.

- (9) Within five (5) working days of the *final* recommendation, any party may request the opportunity to present oral argument at the Commission meeting. The request shall be in writing and shall be filed directly with the Secretary. The requesting party shall also mail a copy of the request to each Commissioner and to each party of record and shall file a copy of the request in the record of the proceeding. The request shall state the reasons why oral argument should be permitted and shall be considered a request on behalf of all parties to the proceeding. The Secretary shall place the request for oral argument on the Commission meeting agenda along with the *final* recommendation and shall notify the parties of its placement on the agenda. The request for oral argument shall be granted only upon a majority vote of the Commissioners at the Commission meeting, in response to a timely filed, written request. In granting a request for oral argument, the Commissioners may direct either that argument be presented during the course of that Commission meeting or at a subsequent Commission meeting. A party may waive its opportunity to present oral argument, either expressly or through its failure to appear and participate in the oral argument. Nothing in this subpart shall be construed as precluding any Commissioner from soliciting information, positions or recommendations or asking questions of any party appearing at a Commission meeting, regardless of whether a request for oral argument has been filed.
- (10) In the event the Commission votes to grant the request for oral argument, each opposing party (unless otherwise specified by Commission vote) shall be allotted a maximum of 10 minutes. In addition, when several parties are aligned on the same side, those parties shall be allowed a total of ten (10) minutes to be allotted among themselves.
- (11) In the event the Commissioners affirm the *final* recommendation of the administrative law judge, the recommendation shall be incorporated into the Order issued by the Commission. The Order shall be prepared by the administrative law judge who submitted the final recommendation affirmed by the Commission.
- (12) In the event the Commissioners overrule the *final* recommendation of the administrative law judge, the resulting Order shall be prepared by the Legal Division of the Commission.
- (b) Upon motion to the administrative law judge and upon a showing of good cause, or upon stipulation of all parties to the proceeding, the administrative law judge may extend or shorten the deadlines for the procedures described in subpart(a) of this Rule or, otherwise, may, extend, abbreviate or omit portions of those procedures.
- (c) To the extent the Commission has delegated to the Commission staff the handling of certain uncontested matters, the procedures within subpart (a) of this Rule shall not apply.
- (d) Except at the discretion of the administrative law judge, the procedures contained within subpart (a) of this Rule shall not apply to a motion to dismiss jointly filed by all parties of record, a motion to dismiss with prejudice filed by the party who instituted the proceeding, or a motion to dismiss without prejudice filed by a party who instituted the proceeding but prior to the filing of any other party=s filing of a responsive pleading. Upon the filing of such a motion to dismiss, the administrative law judge may forego all recommendation procedures and prepare an appropriate order of dismissal for issuance by the Commission.