

TO BE RESCINDED

4901:1-15-04 **Notice and public hearing.**

- (A) This rule shall govern the public notice of and the conduct of oral hearings to be held in cases involving an application by a waterworks company and/or sewage disposal system company for a "Certificate of Public Convenience and Necessity," an application to amend a certificate, or an application to transfer a certificate. Section 4933.25 of the Revised Code, does not require the commission to first hold an oral hearing before it considers such applications. However, before deciding whether to conduct such a hearing, the commission shall follow the procedure set forth in this rule.
- (B) Following the filing of any application set forth in paragraph (A) of this rule, the commission shall review the application to determine its compliance with the requirements of this chapter. If the commission determines that the application is in compliance with the commission's rules, and otherwise appears to be complete, an entry shall be issued which accepts the application, and directs the manner in which public notice of the application is to be accomplished. If the commission determines that the application is not in compliance with the commission's rules, or is otherwise incomplete, an entry shall be issued which directs the manner in which the applicant shall file such information as is necessary to bring the application into compliance or to complete the application.
- (C) Unless otherwise set forth by entry, the applicant, in applications set forth in paragraph (A) of this rule, shall fulfill all of the following notice requirements:
- (1) If public notice is to be accomplished other than by publication of legal notice in a newspaper of general circulation in the area affected by the application, the manner in which public notice of the application is to be accomplished shall be set forth in the entry accepting the application.
 - (2) If public notice is to be accomplished by newspaper publication:
 - (a) The applicant shall give notice by publication, once, in every county affected by the application. Within each affected county, publication must be made in a newspaper published, and of general circulation, within such county;
 - (b) Publication expense shall be borne by the applicant;
 - (c) Proof of publication of an appropriate notice shall be filed with the commission pursuant to the deadline established within the entry calling for publication; and

- (d) Unless otherwise directed by entry, the legal notice which the applicant must publish in applications covered by paragraph (A) of this rule, shall:
- (i) State the fact that such application has been filed with the commission along with a brief description of the purpose of the application;
 - (ii) Set forth the rates proposed to be charged and collected, except in abandonment application cases in which rates are not being proposed, and shall describe the specific area to be served. The published description need not be stated in terms of metes and bounds; however, it shall be in sufficient detail to enable a member of the public to determine the boundary of the service area(s).
 - (iii) Contain the name and complete post office address of the applicants;
 - (iv) Contain a statement which sets forth the docket number which the commission has assigned to the application, as well as the commission's post office address, and which indicates that additional information concerning the application may be obtained by contacting the public utilities commission of Ohio;
 - (v) Provide for a period of time within which affected persons or entities may file with the commission, a written statement which both describes the nature of their interest in the application and requests that an oral hearing be held on the application. Unless otherwise ordered by the commission, this period of time shall include at least fourteen days from the last date upon which publication may be made pursuant to the entry calling for publication;
 - (vi) In the case of an application for a "Certificate of Public Convenience and Necessity," meet the requirements set forth in rule 4901:1-15-05 of the Administrative Code;
 - (vii) In the case of an application to amend a certificate, meet the requirements set forth in rule 4901:1-15-07 of the Administrative Code; and

- (viii) In the case of an application to transfer a certificate, meet the requirements set forth in rule 4901:1-15-09 of the Administrative Code.
- (e) If, within fourteen days from the last date on which publication may be made pursuant to the entry calling for publication, or such other period as may be established within the entry calling for publication, the commission receives from any affected person or entity, a written request for an oral hearing on an application set forth in paragraph (A) of this rule; the commission shall schedule and hold an oral public hearing on the application on a date and at a time and place to be established by the commission. Otherwise the commission may proceed to decide the case without holding an oral hearing, on the basis of the information contained in the application and the affidavits and information submitted to the commission by the applicant. The commission may upon its own motion schedule and hold an oral public hearing on the application at any time during its pendency.
- (3) Entries accepting applications, directing the manner in which notice shall be accomplished and/or scheduling oral hearings shall be served upon the applicant, any affected person or entity who has requested an oral hearing, and upon the board of county commissioners of any county and the chief executive authority of any municipal corporation served or proposed to be served by the application.
- (4) Notwithstanding the provisions of rule 4901-1-08 of the Administrative Code, at any oral hearing held in a case involving an application set forth in paragraph (A) of this rule, the applicant shall be present in person or be represented by a corporate officer if applicant is a corporation or by a partner if applicant is a partnership, at the date, time, and place set for the hearing. Failure of applicant to be present at the hearing is cause for dismissal of the application.
- (D) In cases involving an application for abandonment of water service and/or sewage disposal system service, notice and the conduct of an oral hearing shall be as provided for in paragraphs (B) and (C) of this rule, except that notice shall be by newspaper publication which shall occur once a week for four consecutive weeks in a newspaper of general circulation throughout any county or municipal corporation which has granted a franchise to the applicant utility company.

Effective: 03/24/2003

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CERTIFIED ELECTRONICALLY

Certification

03/14/2003

Date

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