



For Your Information (P-10)

A GUIDE TO PUBLIC PARTICIPATION IN PUBLIC UTILITIES COMMISSION PROCEEDINGS

The Commission carefully manages proceedings to “best conduce the proper dispatch of business and the ends of justice.” C.R.S. 40-6-101. In individual proceedings, that management involves balancing the interests of those bound to appear before the Commission with others interested in or affected by its decisions. Throughout all proceedings, the Commission must always be a responsible steward of the public resources made available at ratepayer expense.

Anyone interested in participating in Commission proceedings may request to participate in a few alternative ways. However, it is always the Commission that must determine the appropriate manner in any given proceeding, consistent with its responsibilities and Colorado law.

a) Public access to proceedings:

Anyone having an interest in a particular proceeding may review filings free of charge by going directly to the [Commission’s E-Filing System](#). They may also register there and request notification of all filings that are made in the proceeding.

The public has access to all Commission filings (including decisions) at any time through its website at no cost. Commission hearings and meetings are open to the public and webcasted. Audio streams are recorded and available on the Commission’s website.

b) Public Comment ([Rule 1509](#)):

Public Comments are most comparable to writing a letter to an elected official. Comments are provided to whomever is deciding the matter (i.e. the Commissioners or an administrative law judge) when filed and are also maintained as part of the Commission’s proceeding.

The Commission is bound to decide matters based upon the official record in each proceeding. While public comments are maintained with a proceeding, they do not rise to the level required to support a Commission decision.

Public comment can address general academic or policy concepts. Comments can also be very specific – perhaps even suggesting that a specific procedural action be taken in a proceeding or that particular questions be asked of a witness during hearing regarding prior statements. In any event, members of the public should not expect a specific individualized response to a

filed public comment.

Note that those participating in a proceeding as a party or amici curiae (addressed below) may not provide public comment for the same proceeding.

Public Comments may be provided through the Commission's [website](#).

c) Amici Curiae ([Rule 1200](#)):

An amicus curiae ("friend of the court" in Latin; plural, amici curiae) is someone who is not a party to the proceeding, but is granted a special status in a proceeding to assist the Commission to reach a decision.

An amicus curiae generally offers information, expertise, or insight that has a bearing on the issues in the case through the filing of legal briefs (or argument). In this manner, once the presentation of evidence by parties to the litigation is complete, an amicus assists the Commission to apply the evidence to reach a decision.

The role of an amicus is longstanding in common law. In appellate settings, courts have rules describing and defining the role. Although the Commission has long provided for the role in its rules, trial courts generally do not define the role in rule.

It is important to understand that the level of desire of someone requesting amici status is not determinative; rather, it is the Commission's decision that the advice of one seeking amicus status is desired and could be helpful to the Commission in reaching a decision based upon the case presented by parties.

Practically, someone lacking expertise in subject matter and familiarity with Commission practice is unlikely to be successful in requesting amicus curiae status. Although the Commission recently eliminated the mandate that amici always be represented by counsel, Rule 1200(c) describes the role of an amicus in Commission proceedings and includes specific requirements of those requesting such status. One choosing to request amicus status should familiarize themselves with the Commission's rules, specifically including Rule 1200, before requesting designation of amicus curiae status and explaining how they can best help the Commission.

Like public comment, an amicus curiae generally does not introduce evidence or define the scope or issues to be decided in a proceeding.

d) Intervention ([Rule 1401](#)):

By intervening in a proceeding, a member of the public can become a full party. Parties to a proceeding undertake the greatest levels of responsibility to the Commission and vice versa. Parties to a proceeding generally have a right to be heard and a right to cross examine witnesses. They have the right to conduct discovery of all other parties, to introduce evidence,

and to appeal the lawfulness of any final decision to the District Court. § 40-6-115 C.R.S. Further appeal may be taken to the Supreme Court.

Notably, parties are also subject to discovery by all other parties.

In Colorado Public Utility Law, the Legislature also accorded standing in Commission proceedings to persons "affected by" such proceedings. The Supreme Court has recognized this more-inclusive standard than the legal interest required to have standing to pursue civil litigation. *Yellow Cab Coop. Ass'n v. Public Utils. Comm'n*, 869 P.2d 545, 549 (Colo. 1994).

In Rule 1401, the Commission applies this more-inclusive legal standing balanced in the context of its obligation to best conduce the proper dispatch of business and the ends of justice. The Commission recognizes those having a legally protected interest or statutory right to intervene as well as those affected by its proceedings. To warrant permissive participation, the Commission requests specific reasons that are within the scope of the Commission's jurisdiction to justify participation and to explain why the one requesting to participate is in the best position to represent that interest. Thus, the Commission might consider whether a sufficient showing justifies appearances of all with overlapping interests. Particularly where interests overlap those of governmental entities that are statutorily required to be represented by the governmental entity, the Commission looks to these specific reasons to determine whether intervention as a party should be permitted.

In light of the rules, a motion for permissive intervention should include as much detail as practicable to demonstrate how the outcome of the proceeding will affect the movant's specific interest and why the movant is in the best position to represent that interest. This demonstration should describe how the proceeding may substantially affect the pecuniary or tangible interests of the movant and that the movant's interests would not otherwise be adequately represented.

e) Representation by an attorney:

As a general rule, a person may represent their own interests without being required to be represented by an attorney.

The Colorado Supreme Court regulates the practice of law, which is generally acting to represent someone else's interests regarding legal rights and duties and in counseling, advising and assisting others in connection with these rights and duties. Only an attorney at law, currently in good standing before the Colorado Supreme Court may practice law. Thus, one representing the interests of others must generally be an attorney or represented by an attorney to avoid the unauthorized practice of law.

A person may appear and represent themselves, notwithstanding the fact that they may not be a lawyer. The Colorado Legislature has also created an exception from the general prohibition of an individual appearing as counsel for another entity. An officer of a closely held entity may generally represent the entity before the Commission before any court of record or before an agency if the amount in controversy does not exceed \$ 15,000. § 13-1-127 C.R.S.

e) Request language access:

The Commission strives to accommodate all members of the public at its hearings and meetings by providing services for foreign language users and persons with disabilities upon receipt of a reasonable accommodation request. Requests for such accommodations should be made at least one week prior to the event by completing the [Language Access Form](#). Requests can also be made directly by contacting Megan Castle at 303.513.2713 or by emailing megan.castle@state.co.us.

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