

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 34.
PUBLIC UTILITIES.

CHAPTER 9.
RATES, EXAMINATIONS, INVESTIGATIONS, AND
HEARINGS.

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CHAPTER 9. RATES, EXAMINATIONS, INVESTIGATIONS, AND HEARINGS.

§ 34-901. EXISTING RATES CONTINUED; SCHEDULES TO BE FILED; APPLICATION TO CHANGE RATES; REVIEW OF RULING BY COURT OF APPEALS.

(a) Unless the Commission shall otherwise order, it shall be unlawful for any public utility within the District of Columbia to demand, collect, or receive a greater compensation for any service than the charge fixed on the lowest schedule of rates for the same service under the law in force on March 4, 1913.

(b) Every public utility in the District of Columbia shall, within 30 days after March 4, 1913, file in the office of the Commission copies of all schedules of rates and charges, including joint rates, in force on March 4, 1913.

(c) Any public utility desiring to advance or discontinue any such rate or rates may make application to the Commission in writing, stating the advance in or discontinuance of the rate or rates desired, giving the reasons for such advance or discontinuance.

(d) Upon receiving such application the Commission shall fix a time and place for hearing, and give such notice to interested parties as shall be proper and reasonable; if, after such hearing and investigation, the Commission shall find that the change or discontinuance applied for is reasonable, fair, and just, it shall grant the application, either in whole or in part.

(e) Any public utility being dissatisfied with any order of the Commission made under the provisions of this section may commence a proceeding against it in the District of Columbia Court of Appeals in the manner as is in this subtitle provided, which action shall be tried and determined in the same manner as is in this subtitle provided.

(Mar. 4, 1913, 37 Stat. 994, ch. 150, § 8, par. 94; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 588, Pub. L. 91-358, title I, § 168(a)(4).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-601.

1973 Ed., § 43-401.

§ 34-902. COMMISSION MAY ADOPT RULES AND REGULATIONS.

The Commission shall have power to adopt reasonable and proper rules and regulations relative to all inspections, tests, audits, and investigations, and to adopt and publish reasonable and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings of public utilities and other parties before it.

(Mar. 4, 1913, 37 Stat. 982, ch. 150, § 8, par. 32.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-602.

1973 Ed., § 43-402.

§ 34-903. COMMISSION TO KEEP INFORMED OF BUSINESS CONDUCT OF UTILITIES.

The Commission shall keep itself informed as to the manner and method in which the business of all public utilities is conducted, and shall have the right to obtain from any public utility all necessary information to enable the Commission to perform its duties.

(Mar. 4, 1913, 37 Stat. 982, ch. 150, § 8, par. 33.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-603.

1973 Ed., § 43-403.

§ 34-904. INSPECTION OF BOOKS AND EXAMINATION OF OFFICERS OF UTILITIES.

The Commission or any commissioner or any person or persons employed by the Commission for that purpose shall, upon demand, have the right to inspect the books, accounts, papers, records, and memoranda of any public utility, and to examine, under oath, any officer, agent, or employee of such public utility in relation to its business and affairs. Any person other than one of said commissioners who shall make such demand shall produce his authority to make such inspection or examination.

(Mar. 4, 1913, 37 Stat. 982, ch. 150, § 8, par. 34.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-604.

1973 Ed., § 43-404.

§ 34-905. PRODUCTION OF RECORDS OF UTILITIES; ATTENDANCE OF WITNESSES; DUTIES OF UNITED STATES ATTORNEY AND CORPORATION COUNSEL.

(a) The Commission may require, by order or subpoena, to be served upon any public utility in the same manner that a summons is served in a civil action in the Superior Court of the District of Columbia, the production within the District of Columbia at such time and place as it may designate of any books, accounts, papers, or records kept by such public utility in any office or place without the District of Columbia, or verified copies in lieu thereof, if the Commission shall so order, in order that an examination thereof may be made by the Commission under its direction. Any public utility failing or refusing to comply with any order or subpoena shall for each day it shall so fail or refuse forfeit and pay to the District of Columbia the sum of \$100, to be recovered in an action to be brought in the name of said District.

(b) Attendance of witnesses and the production of such documentary evidence may be required from any place in the United States. And in case of disobedience to a subpoena the Commission, or any party to a proceeding before the Commission may invoke the aid of any court of the United States or the Superior Court of the District of Columbia in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section. And the said Commission is hereby given power to call on any United States Attorney, the Corporation Counsel of the District of Columbia or any counsel of the Commission to enforce the provisions of this subtitle in the proper courts of the United States, and on such call it shall be the duty of the said United States Attorney, Corporation Counsel, or any counsel of the Commission, upon request of said Commission, to enforce the provisions of this section, the cost and expenses incurred to be paid out of the appropriations for the expenses of the courts of the United States.

(Mar. 4, 1913, 37 Stat. 982, ch. 150, § 8, par. 35; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 909, 991, ch. 646, §§ 1, 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 572, Pub. L. 91-358, title I, § 155(c)(39)(B).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-605.

1973 Ed., § 43-405.

§ 34-906. APPOINTMENT OF INVESTIGATING AGENTS; POWERS.

For the purpose of making any investigation with regard to any public utility the Commission shall have power to appoint, by an order in writing, an agent, whose duties shall be prescribed in such order. In the discharge of his duties such agent shall have every power whatsoever of an inquisitorial nature granted in this subtitle to the Commission and shall have power to administer oaths and take depositions. The Commission may conduct any number of such investigations contemporaneously through different agents, and may delegate to such agent or agents the taking of all testimony bearing upon any investigation or hearing. The decision of the Commission shall be based upon its examination of all testimony and records. The recommendations made by such agents shall be advisory only, and shall not preclude the taking of further testimony, if the Commission so order, nor further investigation.

(Mar. 4, 1913, 37 Stat. 982, ch. 150, § 8, par. 36.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-606.

1973 Ed., § 43-406.

§ 34-907. UTILITIES TO FURNISH INFORMATION REQUIRED BY COMMISSION; MAPS, BOOKS, REPORTS TO BE DELIVERED ON REQUEST.

Every public utility shall furnish to the Commission all information required by it to carry into effect the provisions of this subtitle, and shall make specific answers to all specific questions submitted by the Commission. Any public utility receiving from the Commission any blanks with directions to fill the same shall cause the same to be properly filled out so as to answer, fully and correctly, each question therein propounded, and in case it is unable to answer any question it shall give a good and sufficient reason for such failure; and said answer shall be verified under oath by the president, secretary, superintendent, or general manager of such public utility, and returned to the Commission at its office within the period fixed by the Commission. Whenever required by the Commission, every public utility shall deliver to the Commission any or all maps, profiles, contracts, reports of engineers, and all documents, books, accounts, papers, and records, or copies of any or all of the same, with a complete inventory of all its property, in such form as the Commission may direct.

(Mar. 4, 1913, 37 Stat. 983, ch. 150, § 8, par. 37.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-607.

1973 Ed., § 43-407.

§ 34-908. INVESTIGATION OF UNJUST DISCRIMINATORY RATES, SCHEDULES, OR SERVICES; NO ORDER TO BE ENTERED WITHOUT FORMAL HEARING.

Upon its own initiative or upon reasonable complaint made against any public utility that any of the rates, tolls, charges, or schedules, or services, or time and conditions of payment, or any joint rate or rates, schedules, or services, are in any respect unreasonable or unjustly discriminatory, or that any time schedule, regulation, or act whatsoever affecting or relating to the conduct of any street railway or common carrier, or the production, transmission, delivery, or furnishing of heat, light, water, or power, or any service in connection therewith, or the conveyance of any telegraph or telephone message, or any service in connection therewith, is in any respect unreasonable, insufficient, or unjustly discriminatory, or that any service is inadequate or cannot be obtained, the Commission may, in its discretion, proceed, with or without notice, to make such investigation as it may deem necessary or convenient of any public utility. But no order affecting said rates, tolls, charges, schedules, regulations, or act complained of shall be entered by the Commission without a formal hearing.

(Mar. 4, 1913, 37 Stat. 983, ch. 150, § 8, par. 38; May 9, 2000, D.C. Law 13-107, § 201(f), 47 DCR 1091.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-608.

1973 Ed., § 43-408.

Effect of Amendments

D.C. Law 13-107 inserted "of any public utility" following "convenient".

Legislative History of Laws

Law 13-107, the "Retail Electric Competition and Consumer Protection Act of 1999," was introduced in Council and assigned Bill No. 13-284, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 7, 1999, and December 21, 1999, respectively. Signed by the Mayor on January 18, 2000, it was assigned Act No. 13-256 and transmitted to both Houses of Congress for its review. D.C. Law 13-107 became effective on May 9, 2000.

§ 34-909. PUBLIC NOTICE OF RATE APPLICATIONS OR CHANGES IN CONDITIONS OF SERVICE; OPPORTUNITY FOR PUBLIC RESPONSE; NOTICE TO UTILITY; SETTING TIME AND PLACE FOR HEARING AND INVESTIGATION.

(a) Notice of every rate application or change in condition of service proposed and filed with the Public Service Commission shall be given by the utility to each residential or commercial rate payer affected by the proposed rate application or change. The notice shall be available for viewing at a utility's website, and either by electronic notice to those ratepayers who have registered for electronic billing with the utility or by written notice in the affected ratepayer's billing envelope. The notice shall be sent in not later than the next billing period following the filing; no filing may be approved by the Commission without adequate time for rate payer response. Each notice shall be sufficiently accurate and detailed for the rate payer to understand the filing, including the rate payer's specified affected interest. The notice shall provide the specific rate or service change affecting the rate payer, including the proposed percentage and dollar increase for the rate and rider category of the customer. For every proceeding in which the Commission has a public hearing, the public shall be given a timely opportunity to present its views, as evidence of record, with at least 45 days notice, with notice widely and publicly distributed in a form sufficiently detailed and complete to permit the public to realize its specific and affected interest.

(b) The Commission shall, prior to the formal hearing, notify the public utility complained of that a complaint has been made, and 10 days after the notice has been given the Commission may proceed to set a time and place for a hearing and an investigation as hereinafter provided.

(Mar. 4, 1913, 37 Stat. 983, ch. 150, § 8, par. 39; Mar. 14, 1985, D.C. Law 5-153, § 3(d), 31 DCR 6440; July 17, 1985, D.C. Law 6-9, § 2(a), 32 DCR 2961; Mar. 10, 2004, D.C. Law 15-89, § 2, 51 DCR 1; Apr. 12, 2005, D.C. Law 15-342, 303(d), 52 DCR 2346.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-609.

1973 Ed., § 43-409.

Effect of Amendments

D.C. Law 15-89, in subsec. (a), substituted "Notice of every rate application or change in condition of service proposed and filed with the Public Service Commission shall be given by the utility to each residential or commercial rate payer affected by the proposed rate application or change. The notice shall be: (1) by written notice in the affected rate payer's billing envelope, (2) by electronic notice to those rate payers who have registered for electronic billing with a utility, and (3) available for viewing at a utility's website and updated by a utility on at least a monthly basis consistent with the billing cycle." for "Notice shall be given to the public by the utility in each rate payer's billing envelope of every rate application or change in condition of service proposed and filed with the Public Service Commission."

D.C. Law 15-342, in subsec. (a), substituted "The notice shall be available for viewing at a utility's website, and either by electronic notice to those ratepayers who have registered for electronic billing with the utility or by written notice in the affected ratepayer's billing envelope." for "The notice shall be: (1) by written notice in the affected rate payer's billing envelope, (2) by electronic notice to those rate payers who have registered for electronic billing with a utility, and (3) available for viewing at a utility's website and updated by a utility on at least a monthly basis consistent with the billing cycle."

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 303(d) of Omnibus Utility Emergency Amendment Act of 2005 (D.C. Act 16-12, January 28, 2005, 52 DCR 2945).

Legislative History of Laws

Law 5-153 was introduced in Council and assigned Bill No. 5-225, which was referred to the Committee on Public Services and Cable Television. The Bill was adopted on first and second readings on October 23, 1984, and November 7, 1984, respectively. Disapproved by the Mayor on November 30, 1984, the Bill was

reenacted by the Council on December 4, 1984, assigned Act No. 5-217 and transmitted to both Houses of Congress for review.

Law 6-9 was introduced in Council and assigned Bill No. 6-178, which was referred to the Committee on Public Services and Cable Television. The Bill was adopted on first and second readings on April 16, 1985, and April 30, 1985, respectively. Signed by the Mayor on May 16, 1985, it was assigned Act No. 6-22 and transmitted to both Houses of Congress for its review.

Law 15-89, the "Utility Rate Payers Amendment Act of 2003", was introduced in Council and assigned Bill No. 15-438, which was referred to Committee on Public Interest. The Bill was adopted on first and second readings on November 4, 2003, and December 2, 2003, respectively. Signed by the Mayor on December 18, 2003, it was assigned Act No. 15-259 and transmitted to both Houses of Congress for its review. D.C. Law 15-89 became effective on March 10, 2004.

For Law 15-342, see notes following § 34-401.

§ 34-910. NOTICE AS TO HEARINGS; COMPULSORY ATTENDANCE OF WITNESSES.

The Commission shall give the public utility and the complainant, if any, 10 days notice of the time and place when and where such hearing and investigation will be held and such matters considered and determined. Both the public utility and complainant shall be entitled to be heard and shall have process to enforce the attendance of witnesses.

(Mar. 4, 1913, 37 Stat. 983, ch. 150, § 8, par. 40.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-610.

1973 Ed., § 43-410.

§ 34-911. REASONABLE RATES TO BE ORDERED; NOTICE TO AFFECTED UTILITY.

If upon such investigation the rates, tolls, charges, schedules, or joint rates shall be found to be unjust, unreasonable, insufficient, or unjustly discriminatory, or to be preferential or otherwise in violation of any of the provisions of this subtitle, the Commission shall have power to determine and by order fix and order to be substituted therefor such rate or rates, tolls, charges, or schedules as shall be just and reasonable. If upon such investigation it shall be found that any regulation, time schedule, act, or service complained of is unjust, unreasonable, insufficient, preferential, unjustly discriminatory, or otherwise in violation of any of the provisions of this section, or if it be found that reasonable service is not supplied, the Commission shall have power to determine and substitute therefor such other regulations, time schedules, service, or acts and to make such orders respecting and such changes in such regulations, time schedules, service, or acts as shall be just and reasonable. And upon any investigation for the purpose of determining upon and requiring any reasonable extension or extensions of lines or of service that shall promise to be compensatory within a reasonable time, the Commission shall have power to fix, determine, and require every such extension or extensions to be made and the terms and conditions upon which the same shall be made; provided, that no hearing shall be had and no order shall be made respecting such extension or extensions, without notice to the public utility affected thereby, as provided in § 34-910.

(Mar. 4, 1913, 37 Stat. 983, ch. 150, § 8, par. 41.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-611.

1973 Ed., § 43-411.

§ 34-912. EXPENSES OF INVESTIGATION TO BE BORNE BY UTILITY; DEPOSIT FOR COSTS; LIMITATION OF EXPENDITURES IN HEARINGS; REIMBURSEMENT FEE.

(a)(1) There are established within the District of Columbia treasury 2 fiduciary funds to be known as the "Public Service Commission Agency Fund" and the "Office of the People's Counsel Agency Fund". These funds shall be accounted for under procedures established pursuant to subchapter V of Chapter 3 of Title 47, or any other applicable law. The Public Service Commission Agency Fund shall be used exclusively by

the Commission for the payment of its expenses and the Office of the People's Counsel Agency Fund shall be used exclusively by the Office for the payment of its expenses arising from any investigation, valuation, revaluation, or proceeding of any nature by the Commission or concerning any public utility operating in the District of Columbia, and all expenses of any litigation, including appeals, arising from any such investigation, valuation, revaluation, or proceeding or from any other order or action of the Commission. Expenses shall be deemed to include, but not be limited to, the cost of independent contractors, such as attorneys. Funding for both funds shall be provided through a special franchise tax which shall be paid by each public utility being investigated, valued, revalued, or otherwise affected through a proceeding of the Commission, subject to the limitations enumerated in paragraph (3) of this subsection. Any deposits made through this special franchise tax to each agency fund by any public utility may be amortized over whatever period the Commission shall deem proper and shall be allowed for in the rates to be charged by each utility.

(2) When any such investigation, valuation, revaluation, or other proceeding of any nature is begun by the Commission or the Office of the People's Counsel, either the Commission or the Office of the People's Counsel shall, according to rules issued pursuant to paragraph (5) of this subsection, determine from time to time the reasonable and necessary expenditures required to fully carry out their respective statutory responsibilities with regard to such investigation, valuation, revaluation, or other proceeding. Once the Commission has determined its requirements, the Commission may call upon the utility in question from time to time for the prompt deposit of the special franchise tax deposit to the Public Service Commission Agency Fund determined by the Commission to be reasonable and necessary, subject to the limitations provided in paragraph (3) of this subsection. Once the Office of the People's Counsel has determined its requirements, the Office shall submit its determination for review by the Commission. Based on the record established by the Office's determination of its requirement for special franchise tax funds, the Commission shall review the Office's determination solely to determine whether it is consistent with the statutory authority of and rules issued by the Office, whether it is supported by findings, whether those findings are sustained by substantial evidence in the record submitted to the Commission, and whether it is within the limitations enumerated in paragraph (3) of this subsection. The Commission shall complete its review within 10 days (excluding Saturdays, Sundays, and holidays) of receipt of the Office's determination. After completing its review, the Commission shall either call upon the utilities for the prompt deposit of the special franchise tax deposit to the Office of the People's Counsel Agency Fund or inform the Office in writing of any specific failures of the Office to meet the Commission's enumerated standard of review. Within 10 days (excluding Saturdays, Sundays, and holidays) of any resubmission by the Office, the Commission shall similarly act. If the Commission still notes a failure to meet its standard of review, the Office may appeal to the District of Columbia Court of Appeals under procedures enumerated in § 34-605. If the Commission fails to take action on any submission or resubmission by the Office within the required time frame, the submission or resubmission shall be deemed approved, and the Commission shall carry out its duty to obtain the requested deposit. All such sums shall be deposited in the District of Columbia Treasury. Those sums which are to be used by the Commission for its expenses shall be deposited in the Public Service Commission Agency Fund and those sums which are requested by the Commission on behalf of the Office shall be deposited in the Office of the People's Counsel Agency Fund, to be disbursed in the manner provided for by law for other expenditures of the government of the District of Columbia. The balance of any sums for a specific proceeding remaining in each fund after a 12-month period in which actual expenditures for that proceeding were 5% or less of the fund balance, shall be returned to the utility which made the deposit. The balance of any sums for a specific proceeding remaining after the final disposition of the proceeding or any litigation arising therefrom shall be returned promptly to the utility which made the deposit.

(3) In any valuation or rate case, neither the Commission nor the Office may individually seek special franchise tax deposits of more than one-quarter of one percent of the jurisdictional valuation of the public utility which is the subject of the proceeding. In all other investigations docketed as formal proceedings by the Commission, neither the Commission nor the Office shall individually seek special franchise tax deposits in any one year of more than one-twentieth of one percent of the jurisdictional valuation of each public utility which is the subject of one or more investigations during that year; provided, that the Office may seek special franchise tax deposits of not more than one-quarter of one percent of the jurisdictional valuation of the public utility which is the subject of the proceeding in any instance where the public utility alleges in a proceeding before a federal court or federal agency that the bankruptcy of a company with whom it has contracts may have adverse consequences to ratepayers of the District of Columbia. For the purposes of this paragraph, the Commission may determine the jurisdictional valuation of the public utility which is the subject of the formal proceeding whenever it deems necessary, in accordance with § 34-1106, based on the operations of the utility over whatever 12-month period it deems appropriate.

(4) Should any public utility fail to make any special franchise tax deposit ordered by the Commission pursuant to this section, the Commission shall certify this failure to the Mayor for collection pursuant to the provisions of subchapter XIII of Chapter 18 of Title 47.

(5) The Commission and the Office shall issue rules reasonable and necessary to provide procedures for the determination of their needs for funds from their respective agency funds. These rules shall

include provisions for full disclosure of all special franchise tax deposits prior to the issuance of the deposit orders by the Commission on its own behalf and on behalf of the Office. Full disclosure shall include, but not be limited to, the name of each contractor to be hired, the qualifications of each contractor, a brief description of the work to be done by each contractor, the number of persons employed by each contractor and the hourly rate to be charged by each person thus employed, and the estimated value of each contract.

(6) The District of Columbia Auditor shall review the amounts deposited and disbursed by the Commission and the Office under this section and shall issue a report to the Mayor and the Council on each agency fund on a biennial basis.

(7) The Commission and the Office shall issue reports to the Mayor and the Council by February 15 of the succeeding fiscal year on deposits to and disbursements from their respective agency funds during each fiscal year. Copies of the reports shall be provided to each public utility.

(8) Neither the staff of the Commission nor any consultant hired by the Commission shall appear as a party to, advocate, or intervenor in any Commission proceeding. Individual staff members and consultants may appear on behalf of the Commission as expert witnesses at the direction of the Commission to present testimony on selected issues after the Commission makes a finding of the issues to be decided in the proceeding and a determination that testimony in addition to that to be presented by the parties or intervenors is required by the Commission to develop a complete record. The staff members and consultants shall not advocate a position on the merits. Expert witnesses may be represented by counsel appointed by the Commission for this purpose. The General Counsel or the General Counsel's designee may, at the direction of the Commission and on behalf of the Commission, cross-examine any witness in any proceeding before the Commission.

(9)(A) Each public utility shall furnish the Commission a statement of all costs of participation to be incurred in each Commission and related court proceeding or in complying with the provisions of this title. The statement shall include, but is not limited to, the projected costs and expenses both direct and indirect, an allocation of all projected internal overhead, expenses, and salaries, the name of each contractor to be hired and the value of each contract. This statement shall be compiled and filed with the Commission, with a copy to the Office of People's Counsel, when filing a request for a change in rates or services with the Commission. Each public utility shall also file annually with the Commission, with a copy to the Office, a statement of costs for the previous fiscal year no later than 3 months after the completion of the fiscal year.

(B) The records to be kept and the information presented in the annual statement shall be by case, matter, investigation, or proceeding and shall describe all costs and expenses, external and internal, retained and employed, direct and indirect, including an allocation of all internal overhead, expenses, and employee salaries to each proceeding or matter. If an allocation of costs is made, the report shall fully explain the allocation method used. If any services were provided to the public utility by consultants or contractors, copies of the relevant contracts shall be provided with the annual statement. The Office of the People's Counsel may submit to the public utility a request for further information concerning the annual statement.

(b)(1) All amounts appropriated for the Public Service Commission and the Office of People's Counsel for each fiscal year, except for amounts appropriated for carrying out the Commission's duties under Chapter 36 of Title 3, shall be repaid during such fiscal year by the natural gas suppliers, electricity suppliers and telecommunications services providers as a reimbursement fee.

(2) The amount of the reimbursement fee to be paid by each natural gas supplier, electricity supplier, and local exchange carrier, that is not the incumbent local exchange carrier as defined in this chapter, authorized to provide service in the District, and the formula through which such an amount shall be annually established, shall be determined by the Public Service Commission.

(3) The amount of the reimbursement fee to be paid by each public utility other than a local exchange carrier subject to paragraph (2) of this subsection shall be equal to the product of the amounts appropriated, less the amount to be reimbursed by the providers subject to paragraph (2) of this subsection, multiplied by the fraction, as determined by the Mayor, represented by the revenues of such public utility derived from utility operations in the District of Columbia that are regulated by the Public Service Commission during the immediately preceding fiscal year (or other 12-month period as the Mayor may designate), divided by the gross revenues of all public utilities from utility operations in the District of Columbia during such period. The fee shall be paid by the public utilities during such fiscal year to the Treasurer of the District of Columbia, at such time or times and in such manner as the Mayor by regulation may require. If the total amount paid or obligated by the Public Service Commission and the People's Counsel during such fiscal year pursuant to appropriations for such fiscal year is less than the amounts appropriated by more than 5%, the Mayor shall refund to or credit each public utility and electricity supplier with such part of the difference, rounded to the nearest dollar, as equals the product of the difference multiplied by the fraction, as set forth above, representing the gross revenue of the public utility or electricity supplier relative to the gross revenues of all public utilities, natural gas suppliers, and electricity suppliers.

(4) Repealed.

(5) The funding provisions of subsection (a) of this section shall not apply to local exchange carriers that are not the incumbent local exchange carrier; except, that such providers may be assessed for a proportionate share of the costs of the proceeding required under § 34-2002(k), up to a maximum amount of \$25,000 each.

(6) Repealed.

(7)(A) For any proceeding required to arbitrate disputes between carriers pursuant to the procedures established in this chapter, the Commission may assess, on a nondiscriminatory basis, each local exchange carrier who is a participant in any dispute, an amount equal to the actual cost to the Commission of conducting the arbitration, and the Commission shall present to the Council along with its annual budget request, an accounting of the expenditures of the PSC for each proceeding.

(B) For any proceeding, other than the proceeding called for in § 34-2002(k) and the proceedings referenced in subparagraph (A) of this paragraph, which the Commission may determine is necessary to carry out the purposes of this chapter, the Commission and, when appropriate to its mission, the Office of the People's Counsel, may assess, on a nondiscriminatory basis, the parties who are participants in the proceeding in an amount equal to the actual costs of the proceeding, and the Commission and the Office of the People's Counsel shall present to the Council along with each agency's annual budget request, an accounting of the expenditures of each agency for each proceeding.

(8) Five dollars of the license tax paid for each passenger vehicle for hire by common carriers under § 47-2829(d), shall be deemed the reimbursement fee payable by such common carriers under this subsection.

(9) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, may issue regulations to carry out this subsection, and may delegate all or any of the authority vested in the Mayor by this subsection to such agency or agencies, including the Public Service Commission and the Office of the People's Counsel, as the Mayor may deem appropriate.

(10) A public utility or service provider that fails to comply with a reimbursement order issued by the Commission pursuant to this section shall be subject to the penalty provisions set forth in § 34-706.

(c) Nothing in this chapter shall be construed to prevent the Commission from using the Public Service Commission Agency Fund for the payment of any and all expenses that it incurs in the performance of its duties.

(Mar. 4, 1913, 37 Stat. 984, ch. 150, § 8, par. 42; Mar. 3, 1927, 44 Stat. 1351, ch. 304; Aug. 27, 1935, 49 Stat. 884, ch. 742, § 3; Aug. 30, 1964, 78 Stat. 634, Pub. L. 88-503, § 21; Jan. 2, 1975, 88 Stat. 1976, Pub. L. 93-614, § 2; June 15, 1976, D.C. Law 1-70, title VI, § 606, 23 DCR 553; Sept. 13, 1980, D.C. Law 3-88, § 2, 27 DCR 3004; Aug. 10, 1984, D.C. Law 5-104, §§ 2, 3(b), 31 DCR 3037; Mar. 14, 1985, D.C. Law 5-153, § 3(e), 31 DCR 6440; July 17, 1985, D.C. Law 6-9, § 2(b), 32 DCR 2961; Aug. 1, 1996, D.C. Law 11-152, § 403, 43 DCR 2978; Sept. 9, 1996, D.C. Law 11-154, § 9, 43 DCR 3736; Apr. 20, 1999, D.C. Law 12-263, § 13(c)(1), 46 DCR 2111; May 9, 2000, D.C. Law 13-107, § 201(g), 47 DCR 1091; Mar. 16, 2005, D.C. Law 15-227, § 17(e), 51 DCR 10549; Apr. 12, 2005, D.C. Law 15-342, § 303(e), 52 DCR 2346; Oct. 20, 2005, D.C. Law 16-33, § 2002, 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-191, §§ 5(j), 58(b), 53 DCR 6794; Sept. 24, 2010, D.C. Law 18-223, § 2222(a), 57 DCR 6242; Sept. 14, 2011, D.C. Law 19-21, § 2082(b), 58 DCR 6226.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-612.

1973 Ed., § 43-412.

Effect of Amendments

D.C. Law 13-107 in subsec. (a)(3) substituted "public utility" for "company"; in subsec. (b)(1) substituted "electricity suppliers" for "public utilities"; substituted in subsec. (b)(2) "each electricity supplier and local" for "each local"; and, rewrote the third sentence of subsec. (b)(3) which formerly provided: "If the total amount paid or obligated by the Public Service Commission and the People's Counsel during such fiscal year pursuant to appropriations for such fiscal year is less than the amounts appropriated by more than 5%, the Mayor shall refund to each public utility or credit each public utility with such part of the difference, rounded to the nearest dollar, as equals the product of such difference multiplied by the fraction, as set forth above, representing the gross revenue of such public utility relative to the gross revenues of all public utilities."

D.C. Law 15-227, in subsec. (b), substituted "natural gas suppliers, electricity suppliers" for "electricity suppliers" in par. (1), substituted "natural gas supplier, and electricity supplier" for "electricity supplier" in par. (2), and substituted "natural gas suppliers, and electricity suppliers" for "electricity suppliers" in the third sentence of par. (3).

D.C. Law 15-342, in subsec. (a)(2), substituted "The balance of any sums for a specific proceeding remaining

in each fund after a 12-month period in which actual expenditures for that proceeding were 5% or less of the fund balance, shall be returned to the utility which made the deposit. The balance of any sums for a specific proceeding remaining after the final disposition of the proceeding or any litigation arising therefrom shall be returned promptly to the utility which made the deposit." for "Any deposits made through this special franchise tax to each agency fund by any public utility may be amortized over whatever period the Commission shall deem proper and shall be allowed for in the rates to be charged by each utility."; and rewrote subsecs. (a)(7) which had read:

"(7) The Commission and the Office shall issue reports to the Mayor and the Council by January 1 of the succeeding fiscal year on deposits to and disbursements from their respective agency funds during each fiscal year. The reports shall include, but not be limited to, the following information:

"(A) The dollar amount of each deposit;

"(B) The total amount disbursed for each proceeding;

"(C) The name of each contractor hired, the expertise of each contractor, the type of work performed by each contractor, the hourly rate of each contractor, and the total amount received by each contractor, by proceeding;

"(D) The amount reimbursed to the utility companies, by proceeding; and

"(E) The dollar amount of contracts awarded to minority and District-based firms."

D.C. Law 16-33, in subsec. (a)(3), substituted "special franchise tax deposits in any one year of more than one-twentieth of one percent of the jurisdictional valuation of each public utility which is the subject of one or more investigations during that year; provided, that the Office may seek special franchise tax deposits of not more than one-quarter of one percent of the jurisdictional valuation of the public utility which is the subject of the proceeding in any instance where the public utility alleges in a proceeding before a federal court or federal agency that the bankruptcy of a company with whom it has contracts may have adverse consequences to ratepayers of the District of Columbia." for "special franchise tax deposits in any one year of more than one-twentieth of one percent of the jurisdictional valuation of each public utility which is the subject of one or more investigations during that year".

D.C. Law 16-191, in subsec. (b), validated previously made technical corrections.

D.C. Law 18-223, in subsec. (b)(5), deleted the last sentence which had read: "Any such amount shall be credited against the reimbursement fee of any such LEC pursuant to paragraph (2) of this subsection, in subsequent years."; repealed subsec. (b)(6); and added subsec. (b)(10). Prior to repeal, subsec. (b)(6) read as follows:

"(6) Any local exchange carrier, other than the incumbent local exchange carrier, that seeks certification by the Commission within 5 years of September 9, 1996 shall be assessed in an amount equal to the amount assessed pursuant to paragraph (5) of this subsection, and that assessment shall be reimbursed by the Commission, in equal amounts to the incumbent local exchange carrier, and each local exchange carrier whose authorization from the Commission to provide local exchange service was received during the period in which the proceeding required under § 34-2002(k) took place."

D.C. Law 19-21 repealed subsec. (b)(4), which formerly read:

"(4) Notwithstanding the requirements of paragraph (2) of this subsection, in the case of a local exchange carrier that is not the incumbent local exchange carrier, the amount of the fee payable in the first year such service is provided shall be no less than \$25,000."

Emergency Act Amendments

For temporary amendment of section, see § 403 of the Fiscal Year 1996 Budget Support Emergency Act of 1996 (D.C. Act 11-264, April 26, 1996, 43 DCR 2412), and § 303 of the Fiscal Year 1996 Budget Support Congressional Review Emergency Act of 1996 (D.C. Act 11-335, August 1, 1996, 43 DCR 4256).

For temporary (90-day) amendment of section, see § 3(1) of Public Service Commission Independent Authority Emergency Amendment Act of 1999 (D.C. Act 13-52, April 6, 1999, 46 DCR 3638).

For temporary (90 day) amendment of section, see § 303(e) of Omnibus Utility Emergency Amendment Act of 2005 (D.C. Act 16-12, January 28, 2005, 52 DCR 2945).

For temporary (90 day) amendment of section, see § 2002 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 2222(a) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative History of Laws

Law 1-70 was introduced in Council and assigned Bill No. 1-229, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings and reconsiderations of final reading on February 20, 1976, March 11, 1976 and April 6, 1976, respectively. Signed by the Mayor on April 20, 1976, it was assigned Act No. 1-106 and transmitted to both Houses of Congress for its review.

Law 3-88 was introduced in Council and assigned Bill No. 3-274, which was referred to the Committee on

Finance and Revenue. The Bill was adopted on first and second readings on June 3, 1980 and June 17, 1980, respectively. Signed by the Mayor on July 2, 1980, it was assigned Act No. 3-206 and transmitted to both Houses of Congress for its review.

Law 5-104 was introduced in Council and assigned Bill No. 5-411. The Bill was adopted on first and second readings on April 30, 1984, and May 15, 1984, respectively. Signed by the Mayor on June 6, 1984, it was assigned Act No. 5-145 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 5-153, see Historical and Statutory Notes following § 34-706.

For legislative history of D.C. Law 6-9, see Historical and Statutory Notes following § 34-909.

Law 11-152, the "Fiscal Year 1996 Budget Support Act of 1996," was introduced in Council and assigned Bill No. 11-655, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 2, 1996, and May 7, 1996, respectively. Signed by the Mayor on May 28, 1996, it was assigned Act No. 11-279 and transmitted to both Houses of Congress for its review. D.C. Law 11-152 became effective on August 1, 1996.

Law 11-154, the "Telecommunications Competition Act of 1996," was introduced in Council and assigned Bill No. 11-258, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on May 21, 1996, and June 4, 1996, respectively. Signed by the Mayor on June 25, 1996, it was assigned Act No. 11-300 and transmitted to Congress for its review. D.C. Law 11-154 became effective September 9, 1996.

Law 12-263, the "Residential Real Property Seller Disclosure, Funeral Services Date Change, and Public Service Commission Independent Procurement Authority Act of 1998," was introduced in Council and assigned Bill No. 12-648, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on October 6, 1998, and November 10, 1998, respectively. Vetoed by the Mayor on December 29, 1998, Council overrode the veto on January 5, 1999, and the Bill was assigned Act No. 12-625 and transmitted to both Houses of Congress for its review. D.C. Law 12-263 became effective on April 20, 1999.

For Law 13-107, see notes following § 34-908.

For Law 15-227, see notes following § 34-208.

For Law 15-342, see notes following § 34-401.

Law 16-33, the "Fiscal Year 2006 Budget Support Act of 2005", was introduced in Council and assigned Bill No. 16-200 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 10, 2005, and June 21, 2005, respectively. Signed by the Mayor on July 26, 2005, it was assigned Act No. 16-166 and transmitted to both Houses of Congress for its review. D.C. Law 16-33 became effective on October 20, 2005.

For Law 16-191, see notes following § 34-209.

For Law 18-223, see notes following § 34-706.

For history of Law 19-21, see notes under § 34-706.

Editor's Notes

The phrase "this chapter" was substituted for "this act" in (c), pursuant to instructions from Codification Counsel, notwithstanding that some sections herein were not part of the organic act.

Former § 43-613 [1981 Ed.], D.C. Law 3-88, § 3, 27 DCR 3004, provided for application of the provisions of subsec. (b) of this section with respect to such portion, if any, of fiscal year 1980 beginning on September 13, 1980, and ending on September 30, 1980, and with respect to each fiscal year thereafter.

Former § 43-910 [1981 Ed.], 49 Stat. 885, ch. 742, § 4, provided that if any provision this section or the application to any person or circumstances is held invalid, the invalidity of the remainder of said sections and of the application of such provision to other persons and circumstances shall not be affected thereby.

Miscellaneous Notes

Short title of subtitle A of title II of Law 16-33: Section 2001 of D.C. Law 16-33 provided that subtitle A of title II of the act may be cited as the Office of People's Counsel Amendment Act of 2005.

Short title: Section 2221 of D.C. Law 18-223 provided that subtitle S of title II of the act may be cited as the "Public Service Commission Amendment Act of 2010".

§ 34-913. SEPARATE HEARINGS ON COMPLAINTS; COMPLAINTS NOT TO BE DISMISSED BECAUSE OF ABSENCE OF DIRECT DAMAGE.

The Commission may, in its discretion, when complaint is made of more than one rate or charge of any public utility, order separate hearings thereon, and may consider and determine the several matters complained of separately and at such times as it may prescribe. No complaint shall of necessity at any

time be dismissed because of the absence of direct damage to the complainant.

(Mar. 4, 1913, 37 Stat. 984, ch. 150, § 8, par. 43; May 9, 2000, D.C. Law 13-107, § 201(h), 47 DCR 1091.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-614.

1973 Ed., § 43-413.

Effect of Amendments

D.C. Law 13-107 substituted "rate or charge of any public utility" for "rate or charge".

Legislative History of Laws

For Law 13-107, see notes following § 34-908.

§ 34-914. SUMMARY INVESTIGATION.

Whenever the Commission shall believe that any rate or charge of any public utility may be unreasonable or unjustly discriminatory, or that any reasonable service is not supplied by a public utility, or that an investigation of any matter relating to any public utility should for any reason be made, it may, on its own motion, summarily investigate the same with or without notice.

(Mar. 4, 1913, 37 Stat. 984, ch. 150, § 8, par. 44; May 9, 2000, D.C. Law 13-107, § 201(i), 47 DCR 1091.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-615.

1973 Ed., § 43-414.

Effect of Amendments

D.C. Law 13-107 substituted "rate or charge of any public utility" for "rate or charge", and substituted "supplied by a public utility" for "supplied".

Legislative History of Laws

For Law 13-107, see notes following § 34-908.

§ 34-915. HEARINGS AFTER SUMMARY INVESTIGATION.

If after making such investigation the Commission becomes satisfied that sufficient grounds exist to warrant a formal hearing being ordered as to the matters so investigated, it shall furnish such public utility interested a statement notifying the public utility of the matters under investigation. Ten days after such notice has been given the Commission may proceed to set a time and place for a hearing and an investigation as hereinbefore provided.

(Mar. 4, 1913, 37 Stat. 984, ch. 150, § 8, par. 45.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-616.

1973 Ed., § 43-415.

§ 34-916. NOTICE; HEARING TO BE CONDUCTED AS THOUGH COMPLAINT HAD BEEN FILED.

Notice of the time and place for such hearing shall be given to the public utility and to such other interested persons as the Commission shall deem necessary, as provided in § 34-910, and thereafter proceedings shall be had and conducted in reference to the matter investigated in like manner as though complaint had been filed with the Commission relative to the matter investigated, and the same order or orders may be made in reference thereto as if such investigation had been made on complaint.

(Mar. 4, 1913, 37 Stat. 984, ch. 150, § 8, par. 46.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-617.

1973 Ed., § 43-416.

§ 34-917. UTILITY MAY MAKE COMPLAINT.

Any public utility may make complaint as to any matter affecting its own product or service with like effect as though made by the Commission or upon reasonable complaint as hereinbefore provided.

(Mar. 4, 1913, 37 Stat. 984, ch. 150, § 8, par. 47.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-618.

1973 Ed., § 43-417.

§ 34-918. COMMISSIONERS AND AGENTS MAY ADMINISTER OATHS, ISSUE SUBPOENAS; PROCEEDING TO PUNISH FOR CONTEMPT.

Each of the commissioners and every agent provided for in § 34-906, for the purposes mentioned in this subtitle, shall have power to administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, records, documents, and testimony. In case of disobedience on the part of any person or persons to comply with any order of the Commission or any commissioner, or any subpoena, or on the refusal of any witness to testify to any matter regarding which he may be interrogated before the Commission or its agent authorized, it shall be the duty of the Superior Court of the District of Columbia, or a judge thereof, on application of a commissioner, to compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

(Mar. 4, 1913, 37 Stat. 984, ch. 150, § 8, par. 48; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 572, Pub. L. 91-358, title I, § 155(c)(39)(C).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-619.

1973 Ed., § 43-418.

§ 34-919. WITNESS FEES.

Each witness who shall appear before the Commission or its agent by its order shall receive for his attendance the fees and mileage provided for witnesses in the United States District Court for the District of Columbia on March 4, 1913, which shall be audited and paid in the same manner as fees in criminal cases within the District of Columbia are audited and paid, upon the presentation of proper vouchers, sworn to by such witnesses and approved by the chairman of the Commission. No witnesses subpoenaed at the instance of parties other than the Commission shall be entitled to compensation for attendance or travel unless the Commission shall certify that his testimony was material to the matter investigated, and that his attendance as a witness was reasonably necessary.

(Mar. 4, 1913, 37 Stat. 985, ch. 150, § 8, par. 49; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-620.

1973 Ed., § 43-419.

§ 34-920. TESTIMONY MAY BE TAKEN BY DEPOSITION.

The Commission or any party may, in any investigation, cause the depositions of witnesses residing within

or without the District of Columbia to be taken in the manner prescribed by law for like depositions in civil actions in the Superior Court of the District of Columbia.

(Mar. 4, 1913, 37 Stat. 985, ch. 150, § 8, par. 50; July 29, 1970, 84 Stat. 583, Pub. L. 91-358, title I, § 163(i)(1).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-621.

1973 Ed., § 43-420.

§ 34-921. RECORD OF PROCEEDINGS TO BE KEPT; TESTIMONY TO BE TAKEN STENOGRAPHICALLY.

A full and complete record shall be kept of all proceedings had before the Commission or its agents on any formal investigation had, and all testimony shall be taken down by a stenographer appointed by the Commission.

(Mar. 4, 1913, 37 Stat. 985, ch. 150, § 8, par. 51.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-622.

1973 Ed., § 43-421.

§ 34-922. CERTIFIED COPY OF TRANSCRIPT TO BE RECEIVED IN EVIDENCE; COPY TO BE FURNISHED WITHOUT COST.

A transcribed copy of the evidence and proceedings, or any specific part thereof, in any investigation taken by a stenographer appointed by the Commission, being certified by such stenographer to be a true and correct transcript of all the testimony in the investigation or of a particular witness, or of other specific part thereof, carefully compared by him with his original notes, and to be a correct statement of the evidence and proceedings had in such investigation so purporting to be taken and transcribed, shall be received in evidence with the same effect as if such reporter were present and testified to the fact so certified. A copy of such transcript shall be furnished on demand, free of cost, to any party to such investigation.

(Mar. 4, 1913, 37 Stat. 985, ch. 150, § 8, par. 53.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-623.

1973 Ed., § 43-422.