

Kansas Administrative Regulations

Kansas Corporation Commission

Article 1.—Rules of Practice and Procedure

82-1-221a. Confidentiality.

(a) Any document, data, customer-specific contract, proprietary information, trade secret, or other commercial information filed with or furnished to the Kansas corporation commission (commission) as confidential shall, in addition to the requirements set forth in the Kansas statutes annotated and the Kansas administrative regulations, comply with the following requirements:

(1) The term "document" or "documents," as used in this regulation, means any original, copy, or draft of any handwritten, typewritten, printed, graphic, or electronically recorded material, and shall include the following:

- (A) Correspondence;
- (B) notes;
- (C) memoranda;
- (D) studies;
- (E) reports;
- (F) records;
- (G) charts;
- (H) invoices;
- (I) bills;
- (J) diaries;
- (K) calendars;
- (L) books;
- (M) statements;
- (N) appointment books;
- (O) tape recordings;
- (P) videos;
- (Q) faxes;

(R) computer printouts and software;
(S) electronically recorded media; and
(T) any other writing or tangible record of any kind, type, or nature, and however produced.

(2) The party seeking to classify documents as confidential shall file with or furnish to the executive director of the commission each document clearly marked "CONFIDENTIAL," accompanied by a cover letter requesting confidential status.

(3) Confidential information contained on a floppy disk or other electronic device shall be filed or furnished separately from other devices containing nonconfidential information. The electronic device containing the confidential material shall be clearly marked "CONFIDENTIAL."

(4) The information contained on floppy disks or other electronic devices shall also contain the "CONFIDENTIAL" designation on each page or other subdivision of information when printed.

(5) A written explanation of the confidential nature of each document shall accompany each page for which confidential status is sought. One written explanation may apply to more than one page of confidential information, if the identity and confidential nature of each individual page is clearly stated in the explanation. The explanation shall be specific to the document in question and shall state whether the information constitutes a trade secret or confidential commercial information. The explanation shall further specify the harm or potential harm that disclosure would cause to the entity seeking nondisclosure.

(b) Requests for information classified as confidential shall be made by filing a written request with the executive director of the commission and using a form provided by the commission for this purpose, or by motion from a party to the docket in which the information is sought.

(1) If a request for information classified as confidential is not filed as a motion in an active KCC docket, the entity seeking to maintain the confidential status of the information shall be notified by the commission of the request. The entity seeking to maintain the confidential status shall have five working days after service, plus three days if service is by mail, to respond to this request. Any response filed with the

commission in opposition to a request shall substantiate the basis for nondisclosure and shall be served upon the commission and the entity requesting disclosure. The entity requesting disclosure may reply to the response within five working days after service, plus three days if service is by mail, by serving a reply upon the entity seeking to maintain nondisclosure and upon the commission.

(2) A request made by a party to a docket for disclosure of confidential documents or information contained within the docket shall be made by motion. No party shall request disclosure from the commission of information classified as confidential until the party has requested the information in writing from the party seeking to maintain its confidential nature and this request has been denied. The motion shall proceed in accordance with the Kansas corporation commission's rules of practice and procedure, K.A.R. 82-1-201 *et seq.*

(3) A determination of the confidential nature of the information and whether or not to require the disclosure of the confidential information requested under paragraphs (b)(1) and (b)(2) above shall be issued by the commission in accordance with K.S.A. 66-1220a and amendments thereto.

(c) Each person making a request pursuant to K.S.A. 45-215 *et seq.*, and amendments thereto, for nonconfidential information shall submit the request in writing and shall include the requester's name, address, telephone number, and the name of the business or entity represented.

(d) Confidential documents submitted to the corporation commission before the adoption of this regulation, including information required by statute, regulation, or order of the commission, shall be handled in accordance with statutes, regulations, and orders applicable at the time the document was submitted. Requests for access to any of this information shall be handled in accordance with the provisions of this regulation.

(e) Documents filed pursuant to K.A.R. 82-3-107 shall be exempt from the requirements of this regulation.

(Authorized by and implementing K.S.A. 66-1220a; implementing K.S.A. 1997 Supp. 66-101c, K.S.A. 1997 Supp. 66-117, K.S.A. 1997 Supp. 66-151, K.S.A. 1997 Supp. 66-2010, K.S.A. 1997 Supp. 66-1,190, K.S.A. 1997 Supp. 66-1,203 and K.S.A. 55-704; effective March 12, 1999.)

***** Authenticated Kansas Administrative Regulation *****