

# **Kansas Administrative Regulations**

## **Kansas Corporation Commission**

### **Article 1.—Rules of Practice and Procedure**

#### **82-1-220a. Expedited review of disputes between telecommunications service providers.**

(a) The expedited review process shall be used to resolve disputes between competing telecommunications carriers in an expeditious manner. Except as specifically provided in this regulation, the provisions of K.A.R. 82-1-220 shall apply.

(b) This process may be used to bring expedited resolution to disputes under interconnection agreements entered into pursuant to 47 U.S.C. secs. 251 and 252 of the federal telecommunications act of 1996. This process shall be in addition to any dispute resolution process or procedure specified in the parties' interconnection agreement. Use of this process may be requested if a dispute directly affects the ability of a party to provide uninterrupted service to its customers or affects the provisioning of any service, functionality, or network element. This process shall not be used for disputes that involve consumer complaints against the carriers or requests for damages. The commission or its designated examiner shall have the authority to shorten or lengthen the deadlines specified in this regulation if the circumstances warrant or if all parties agree.

(c) Each request for expedited review shall be filed at the same time and in the same document as those for a complaint filed in accordance with K.A.R. 82-1-220, but shall include the phrase "Request for Expedited Review" in the heading. Each complaint that includes a request for expedited review shall contain the following information:

(1) A description of the specific circumstances that make the dispute eligible for expedited review;

(2) a description of the particular service-affecting issue justifying the expedited review;

(3) a description of the parties' efforts to resolve each disputed issue, including any steps taken in accordance with the dispute resolution process contained within the parties' interconnection agreement;

(4) a list of cross-references to the area or areas of the interconnection agreement that are applicable to each disputed issue; and

(5) any proposed resolution of the dispute.

(d) On the same day on which any complaint or response to the complaint is filed with the commission in accordance with this regulation, the complaint or response shall be served on the other party, the commission legal staff, and the commission advisory counsel by hand delivery or by facsimile or electronic mail with telephonic confirmation of receipt.

(e) Within three business days after the filing of the complaint, the respondent shall respond to the issues that the complainant asserts justify the request for expedited review. If additional time is needed to respond to issues raised in the complaint, the respondent shall specifically designate which issues it will address in a later response, but the respondent shall respond to issues that the complainant has designated for expedited review.

(f) A member of the advisory counsel, legal staff, or technical staff may be designated by the commission to act as an examiner in this expedited proceeding. The designated examiner shall have the discretion to determine whether resolution of the complaint should be expedited in light of the complexity of the issues or other factors relevant to the need for a rapid and efficient decision. After reviewing the complaint and response, the examiner shall decide whether expedited review is warranted. If the examiner decides that an expedited review is warranted, the examiner shall schedule a meeting as soon as practical considering the issues raised, but no more than 10 business days after the request for expedited review was filed.

(g) If the examiner determines that the complaint is not appropriate for expedited review, the examiner shall notify the parties in writing no more than 10 business days after the request for expedited review was filed. The complainant may appeal this decision to the commission within five business days of the written decision. A prompt ruling on the appeal shall be issued by the commission.

(h) Throughout the expedited review process, the examiner shall oversee the discussion between the parties and may act in the capacity of a mediator or negotiator. The examiner may issue an interim ruling that controls the actions of the parties until a formal hearing can be conducted or a subsequent written decision is filed. The interim ruling shall be in effect throughout the complaint process. Each interim ruling shall be considered as a nonfinal agency action.

(i) If the examiner determines that an informal resolution of the issues designated for expedited review is not possible, a hearing on the expedited issues shall commence no later than 15 business days after the complaint was filed. The examiner shall notify the parties not less than two business days before the hearing of the date, time, and location of the hearing.

(j) During the expedited review, each party shall refrain from taking action that would impair the other party's ability to offer service to its end users. Furthermore, both parties shall have at all meetings, unless otherwise agreed by the parties and the examiner, persons who are authorized to resolve the dispute.

(k) The examiner may require the parties to file decision point lists on or before the commencement of the hearing. The decision point lists shall identify all issues to be addressed in the expedited process, any witnesses who will be addressing each issue, and a synopsis of each witness's position on each issue. If the examiner requires the filing of decision point lists, the decision point lists shall be filed simultaneously. Except as provided in K.S.A. 66-1220a, and amendments thereto, relating to confidential information, all materials filed with the commission or provided to the examiner shall be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto.

(l) The examiner shall make written findings and recommendations on the expedited issues in the complaint within 10 business days after the close of the hearing. The examiner shall notify the parties by facsimile or electronic mail that the decision has been issued. If necessary to fully advise the commission about the expedited review, the examiner may file supplemental findings and recommendations. The examiner shall designate a time for parties to file objections, if any, to the examiner's findings and recommendations. Pursuant to K.S.A. 77-526(i) and amendments thereto, an order

shall be promptly issued by the commission on the examiner's findings and recommendations regarding the issues.

(Authorized by and implementing K.S.A. 2001 Supp. 66-106; effective Jan. 24, 2003.)

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