

1400 **PURPOSE**

1400.1 The purpose of this chapter is to promote procedural efficiency by establishing a set of procedural and substantive rules for governing the issuance of special franchise tax deposit orders in accordance with the requirements of D.C. Code § 43-612(a)(5), (1981 Ed.).

AUTHORITY: Unless otherwise noted, the authority for this chapter is Paragraph 97(b) of § 8 of An Act Making appropriations to provide for the expenses of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 977); as amended by § 2 of the Public Utilities Amendment Act of 1989, D.C. Law 8-47, D.C. Code § 43-501 (1981 Ed.).

SOURCE: Final Rulemaking published at 33 DCR 893 (February 14, 1986).

1401 COMMISSION DETERMINATIONS OF AGENCY FUND REQUIREMENTS

1401.1 When any proceeding is initiated by the Commission, or any member, the Commission, or member, shall, prior to the issuance of any special franchise tax deposit order for that proceeding, issue a Notice of Agency Fund Requirements for that proceeding setting forth the reasonable and necessary expenditures required by the Commission, or member, to carry out its statutory responsibilities with regard to the proceeding.

1401.2 A Notice of Agency Fund Requirements shall contain the following information:

- (a) The total amount sought from each affected utility and the dates on which payment is requested to be made by each utility;
- (b) The name of each contractor to be hired;
- (c) A brief description of the qualifications of each contractor;
- (d) A brief description of the work to be performed by each contractor;
- (e) The number of persons to be employed by the contractor on the contract;
- (f) The rate of compensation on an hourly basis for each person so employed by the contractor; and
- (g) The actual or estimated amount of each contract.

1401.3 In determining its agency fund requirements, the Commission shall consider the following:

- (a) The nature of the proceeding;
- (b) The expertise, reputation, and ability of the contractor;
- (c) The quality of the contractor's prior work before the Commission;
- (d) The customary expenditures required for services in similar proceedings before the Commission or elsewhere; and
- (e) The level of assistance required by the Commission to discharge its statutory responsibilities with the respect to the proceeding.

SOURCE: Final Rulemaking published at 33 DCR 893 (February 14, 1986); as amended by Final Rulemaking published at 33 DCR 1857 (March 21, 1986).

1402 TIME FOR ISSUING NOTICE

- 1402.1 A Notice of Agency Fund Requirements may be issued by the Commission at any time.
- 1402.2 Any Notice of Agency Fund Requirements, once issued, shall be placed in the official docket of the Commission, and served on the affected utility, the Office of the People’s Counsel (“OPC”), and any party to the proceeding.
- 1402.3 Any Notice of Agency Fund Requirements issued for a matter not officially docketed by the Commission shall be served on the affected utility and OPC and shall be maintained in the public records of the Commission.

SOURCE: Final Rulemaking published at 33 DCR 893, 894 (February 14, 1986).

**1403 OPPOSITION TO COMMISSION DETERMINATIONS
OF AGENCY FUND REQUIREMENTS AND THE
ISSUANCE OF SPECIAL FRANCHISE TAX DEPOSIT
ORDERS**

1403.1 Any opposition to a Commission Notice of Agency Fund Requirements and the subsequent issuance of a special franchise tax deposit order shall be filed with the Commission within five (5) business days of the date of the Notice.

1403.2 Any opposition to a Commission Notice shall also be hand delivered to the affected utility, OPC and any party of record.

1403.3 Opposition to the Commission's determination may be based on, but not limited to, the following grounds:

- (a) Whether the rate of compensation for a contractor is unreasonable;
- (b) Whether the work to be performed by the contractor is not reasonably connected to the proceeding; and
- (c) Whether the dollar amount sought by the Commission exceeds the statutory limits.

SOURCE: Final Rulemaking published at 33 DCR 893, 895 (February 14, 1986).

**1404 ISSUANCE OF A SPECIAL FRANCHISE TAX
DEPOSIT ORDER ON BEHALF OF THE
COMMISSION**

- 1404.1 Within five (5) business days of the filing of any opposition, or within ten (10) business days after the issuance of a Notice of Agency Fund Requirements if no opposition is filed, the Commission, unless the time is otherwise extended, shall issue the special franchise tax deposit order, or rule on the opposition, or both.
- 1404.2 Any order or ruling shall set forth findings and be supported by substantial evidence in the record before the Commission.
- 1404.3 Review of any order or ruling under § 1404.1 shall be as provided for in D.C. Code §§ 43-904 *et seq.* (1981 Ed.).

SOURCE: Final Rulemaking published at 33 DCR 893, 895 (February 14, 1986).

**1405 ISSUANCE OF A SPECIAL FRANCHISE TAX
DEPOSIT ORDER ON BEHALF OF THE OFFICE OF
PEOPLE’S COUNSEL (OPC)**

- 1405.1 With respect to any proceeding, once OPC has determined the reasonable and necessary expenditures required by OPC to carry out its statutory responsibilities with regard to the proceeding, OPC shall file a Notice of Agency Fund Requirements with the Commission for review.
- 1405.2 The OPC’s Notice of Agency Fund Requirements shall contain the information set forth in § 1401.2.
- 1405.3 An OPC Notice of Agency Fund Requirements may be filed with the Commission at any time.
- 1405.4 Within ten (10) business days of the filing of OPC’s Notice of Agency Fund Requirements, the Commission shall decide whether to issue the special franchise tax deposit order.
- 1405.5 In the event that the special franchise tax deposit order is not issued by the Commission, then the ruling or order by the Commission on the Notice shall set forth the specific failure of OPC to meet the standard for review set forth in the statute.
- 1405.6 If after receiving an order or ruling, OPC resubmits the Notice and related request for issuance of a special franchise tax deposit order, then the provisions of §§ 1405.1-1405.5 shall apply to the resubmissions.
- 1405.7 With respect to any OPC Notice of Agency Fund Requirements filed with the Commission pursuant to § 1405.1 or any resubmission made with the Commission pursuant to §1405.6, if the Commission fails to take action within the timeframe set forth in § 1405.4, then the Notice, or resubmission, shall be deemed approved and the Chief Clerk of the Commission shall cause the special franchise tax deposit order to issue.
- 1405.8 Review of any order or ruling made by the Commission pursuant to §§ 1405.4 through 1405.6 shall be as provided for in D.C. Code §§ 43-904 et seq. (1981 Ed.).

SOURCE: Final Rulemaking published at 33 DCR 893, 896 (February 14, 1986).

1406 APPLICATION OF OTHER CHAPTERS

1406.1 Unless otherwise noted in this chapter, the rules and procedures of the Commission as set forth in Chapter 1 of this title shall apply to all matters arising under this chapter.

SOURCE: Final Rulemaking published at 33 DCR 893, 896 (February 14, 1986).

1407 JOINT ASSESSMENTS

1407.1 In the case of a single proceeding which involves more than one (1) utility, the assessment called for by any special franchise tax deposit order shall be apportioned in accordance with the formula set forth in the Reimbursement Fee Act (D.C. Code § 43-612(b)(2) (1981 Ed.)).

SOURCE: Final Rulemaking published at 33 DCR 893, 897 (February 14, 1986).

1499 DEFINITIONS

1499.1 When used in this chapter, the following terms and phrases shall have the meaning ascribed:

Affected Utility – an affected utility is any utility regulated by the Commission which is a party to, or participates in, any proceeding.

Contractor – a contractor is any person, partnership, association, corporation, or other entity who supplies the Commission or OPC with services.

Proceeding – a proceeding is any administrative action, process, adjudication, or investigation pending before, or initiated by, the Commission or any member.

SOURCE: Final Rulemaking published at 33 DCR 893, 897 (February 14, 1986).