

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday the 30th day of October, 2015.

It is ordered that the Rules heretofore adopted and promulgated by this Court and now in effect be and they hereby are amended to become effective January 1, 2016.

Amend Rule 5:21 to read as follows:

Rule 5:21. Special Rules Applicable to Certain Appeals of Right

(a) *Appeals from the State Corporation Commission.* -

(1) Applicability. Paragraph (a) of this Rule applies to all appeals from the State Corporation Commission and supersedes all other Rules except as otherwise specified herein.

(2) Party to the Commission Proceeding. For the purposes of paragraph (a), the Commission, the Attorney General, the applicant or petitioner, and every person who made an appearance in person or by counsel in a capacity other than as a witness at any hearing in any proceeding before the Commission shall be the parties to such proceeding. Any party who is aggrieved by any final order, judgment, or finding of the Commission, or part thereof, is entitled to an appeal to this Court upon perfecting the appeal as provided by paragraph (a). Upon the request of any party, the clerk of the Commission shall prepare and certify a list of all parties (including their addresses and the names and addresses of their counsel) to a proceeding before the Commission. Service upon a party represented by counsel shall be made upon his counsel.

(3) Notice of Appeal. No appeal from an order of the Commission shall be allowed unless the aggrieved party files a notice of appeal in the office of the clerk of the Commission within 30 days after entry of the order appealed from. A copy of the notice of appeal shall be mailed or delivered to each party to the Commission proceeding, including the Attorney General of Virginia, and an acceptance of such service or a certificate showing the date of delivery or mailing shall be appended thereto. All appeals from the same order shall be deemed to be a consolidated case for the purpose of oral argument in this Court unless this Court shall order a severance for convenience of hearing.

(4) Record. The clerk of the Commission shall prepare and certify the record as

soon as possible after a notice of appeal is filed and shall, as soon as it has been certified by him, transmit the record to the clerk of this Court within 4 months after entry of the order appealed from. In the event of multiple appeals in the same case or in cases tried together below, only one record need be prepared and transmitted.

(5) Contents of Record. The record on appeal from the Commission shall consist of all notices of appeal, any application or petition, all orders entered in the case by the Commission, the opinions, the transcript of any testimony received, and all exhibits accepted or rejected, together with such other material as may be certified by the clerk of the Commission to be a part of the record. The record shall conform as nearly as practicable to the requirements of Rule 5:10.

(6) Petition for Appeal. Only a party who has filed a notice of appeal in compliance with paragraph (a)(3) of this Rule may file a petition for appeal. A party filing a notice of appeal shall file a petition for appeal, accompanied by the prescribed filing fee, in the office of the clerk of this Court within 4 months after entry of the final order, judgment or finding by the Commission and, prior to the filing of the petition shall mail or deliver a copy to every other party to the Commission proceeding. Except as provided herein, the provisions of Rule 5:17 do not apply to a petition filed pursuant to this subparagraph. The petition for appeal shall identify the order appealed from and the date of the order, contain assignments of error, and include the certificate required by Rule 5:17(i). Oral argument on the petition shall not be allowed nor will a brief in opposition be received. If the petition prays for a suspension of the effective date of the order appealed from, it shall contain an assignment of error regarding the effective date of the order appealed from and such statements of the facts and argument as shall be necessary for an understanding of this assignment of error. In that event, a brief in opposition will be received. The brief in opposition must be filed within 15 days of the filing of the petition for appeal, may be no longer than 10 pages or 1,750 words, and may only address the assignment of error regarding the effective date of the order appealed from. Oral argument on the assignment of error regarding the effective date of the order appealed from may be granted.

(7) Assignments of Error. The assignments of error shall be listed under a heading entitled "Assignments of Error." The assignments of error shall clearly and concisely and without extraneous argument identify the specific errors in the rulings below upon which the party

intends to rely. A clear and exact reference to the pages of the transcript, written statement of facts, or record where the alleged error has been preserved shall be included with each assignment of error. Only errors so assigned will be noticed by this Court and no error not so assigned will be considered as grounds for reversal of the decision below. No ruling by the Commission will be considered as a basis for reversal unless an objection was stated with reasonable certainty at the time of the ruling, except for good cause shown or to enable this Court to attain the ends of justice. An assignment of error which merely states that the judgment is contrary to the law and the evidence is not sufficient.

(8) Award of Appeal. When the notice(s) of appeal, the record, and the petition(s) for appeal have been filed in the manner provided herein and within the time provided herein and by law, the clerk of this Court shall forthwith enter an order docketing the appeal, requiring such bond as the clerk shall deem proper. The clerk's action shall be subject to review by this Court.

(9) Notice of Participation in an Appeal. Within 21 days after an appeal from a Commission order has been docketed as provided in subparagraph (8), any party to the Commission proceeding who did not file a notice of appeal may file a notice of participation with the clerk of this Court. The notice shall identify whether the party seeks to be an appellant or appellee. If there is more than one appellant, the notice of participation as an appellant must identify the specific appellant(s) with which the participating appellant will align. Participating parties shall follow the briefing schedule and requirements of subparagraph 10, except that a participating party may not raise any additional assignments of error or cross-error. The notice of participation as appellant or appellee shall be mailed or delivered to every other party to the Commission proceeding.

Every party who has not filed a notice of appeal or notice of participation, or having filed a notice of appeal does not file a petition as provided herein, shall not be a party to the appeal and no further papers shall be served on such party. Notwithstanding the foregoing provision, a necessary party who does not file a notice of appeal, petition or notice of participation shall be deemed an appellee. The Commission need not file a notice of participation and shall be deemed an appellee.

(10) Further Proceedings. Further proceedings in this Court shall conform to Rules 5:23 through 5:38 provided that (i) the time within which the appellee may file with the

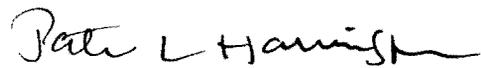
clerk of this Court a designation of the additional parts of the record that the appellee wishes included in the appendix (Rule 5:32(b)) shall be extended to 30 days after the date of the certificate of the clerk of this Court, pursuant to Rule 5:23, has been awarded; and (ii) the time within which the opening brief of the appellant(s) shall be filed in the office of the clerk of this Court shall be extended to 50 days after such date.

(11) Withdrawal or Settlement of Pending Appeal. A party who filed a notice of and petition for appeal may withdraw his appeal. Notice of withdrawal or settlement shall conform to Rule 5:38. Settlement or withdrawal of an appeal terminates that appellant's appeal and any participating party aligned with that appellant shall be deemed to have withdrawn its participation in the settled or withdrawn appeal.

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A Copy,

Teste:



Clerk