

ACT 205

S.B. NO. 1327

A Bill for an Act Relating to the use of Electronic Filing by the Public Utilities Commission.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to authorize the electronic filing of documents by and with the public utilities commission.

SECTION 2. Section 269-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Document” includes any application, complaint, pleading, brief, answer, motion, memorandum, declaration, exhibit, certificate of service, and other papers filed by or with the commission.”

SECTION 3. Section 269-6.5, Hawaii Revised Statutes, is amended to read as follows:

“§269-6.5 Electronic copies of documents. (a) No later than July 1, 2011, the public utilities commission shall accept from any person who submits a document to the commission the original or one electronic copy of each application, complaint, pleading, brief, or other document required to be filed with the commission pursuant to this chapter, and the consumer advocate shall accept service of one paper or electronic copy of each application, complaint, pleading, brief, or other document filed with the commission.

(b) The commission shall adopt rules pursuant to chapter 91 to effectuate the purposes of this section. Until the final adoption by the commission of rules governing the electronic filing of documents with the commission, the

following requirements shall apply to all documents submitted to the commission pursuant to this section; provided that additional requirements with regard to document format may be established by the commission through written guidelines:

- (1) Unless otherwise required by this chapter or the guidelines of the commission, each person who submits or files an application, complaint, pleading, brief, or other document shall submit to or file with the commission an original or one electronic copy of each document and shall serve one paper or electronic copy of each document on the consumer advocate;
- (2) All paper documents submitted to or filed with the commission shall be printed on one side of the page only and, if practicable, in portrait orientation;
- (3) Original paper documents submitted to or filed with the commission shall not be stapled but shall be clipped together or placed in a clearly marked three-ring binder, as appropriate;
- (4) All paper documents filed or submitted to the commission shall include appropriately labeled separator pages in addition to tabbed dividers, as applicable;
- (5) All confidential documents filed under confidential seal shall be clearly designated in accordance with the requirements of any applicable protective order, and the sealed envelope in which the confidential documents are enclosed shall clearly indicate the appropriate docket number and subject; and
- (6) Electronic documents shall be named using the filing party's name, docket number, date of filing, and name of document as part of the document title.

Upon final adoption of rules pursuant to chapter 91, the rules of the commission governing submission or filing of electronic documents shall supersede the provisions of this subsection.

(c) No later than July 1, 2013, the public utilities commission shall accept any application, complaint, pleading, brief, or other document required to be filed with the commission pursuant to this chapter as either a paper document or an electronic document.

(d) If a signature is required on any document submitted electronically pursuant to this section, that requirement shall be satisfied by the inclusion of an electronic signature. Chapter 489E shall apply to all electronic documents submitted pursuant to this section.

(e) Communications, correspondence, and service of orders and other official documents shall be made upon the public utility, complainant, and any other party at the last recorded mailing or electronic mail address on file with the commission. Proof of service by certified or registered mail or by electronic transmission to the last known mailing or electronic mail address shall constitute a valid service of any communication, correspondence, order, or other official document.

(f) A document filed by electronic means shall be equivalent to an original document for the purposes of this chapter."

SECTION 4. Section 271-4, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"“Document” includes any application, complaint, pleading, brief, answer, motion, memorandum, declaration, exhibit, certificate of service, and other papers filed by or with the commission.”

SECTION 5. Section 271-26.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§271-26.5]]~~ Change of address; responsibility; service of [orders.] documents. A motor carrier shall have, maintain and operate from a definite place of business in the State and shall display therein the certificate or permit issued by the public utilities commission. The certificate or permit holder shall report any change of address or telephone number to the commission within five business days from ~~[such]~~ the change. Communications, correspondence ~~[and]~~, service of orders, and other official documents shall be made upon the ~~[certificate or permit holder]~~ motor carrier, complainant, and any other party at the last recorded mailing or electronic mail address on file with the commission. Proof of service by certified or registered mail or by electronic transmission to the last known mailing or electronic mail address shall constitute a valid service of any commission’s ~~[order.]~~ official document.”

SECTION 6. Section 271G-5, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Document” includes any application, complaint, pleading, brief, answer, motion, memorandum, declaration, exhibit, certificate of service, and other papers filed by or with the commission.”

SECTION 7. Section 271G-7.5, Hawaii Revised Statutes, is amended to read as follows:

“§271G-7.5 Electronic copies of documents. (a) No later than July 1, 2011, the public utilities commission shall accept from any person who submits a document to the commission the original or one electronic copy of each application, complaint, pleading, brief, or other document required to be filed with the commission pursuant to this chapter, and the consumer advocate shall accept service of one paper or electronic copy of each application, complaint, pleading, brief, or other document filed with the commission.

(b) The commission shall adopt rules pursuant to chapter 91 to effectuate the purposes of this section. Until the final adoption by the commission of rules governing the electronic filing of documents with the commission, the following requirements shall apply to all documents submitted to the commission pursuant to this section; provided that additional requirements with regard to document format may be established by the commission through written guidelines:

- (1) Unless otherwise required by this chapter or the guidelines of the commission, each person who submits or files an application, complaint, pleading, brief, or other document shall submit to or file with the commission an original or one electronic copy of each document and shall serve one paper or electronic copy of each document on the consumer advocate;
- (2) All paper documents submitted to or filed with the commission shall be printed on one side of the page only and, if practicable, in portrait orientation;
- (3) Original paper documents submitted to or filed with the commission shall not be stapled but shall be clipped together or placed in a clearly marked three-ring binder, as appropriate;
- (4) All paper documents filed or submitted to the commission shall include appropriately labeled separator pages in addition to tabbed dividers, as applicable;
- (5) All confidential documents filed under confidential seal shall be clearly designated in accordance with the requirements of any

applicable protective order, and the sealed envelope in which the confidential documents are enclosed shall clearly indicate the appropriate docket number and subject; and

- (6) Electronic documents shall be named using the filing party's name, docket number, date of filing, and name of document as part of the document title.

Upon final adoption of rules pursuant to chapter 91, the rules of the commission governing submission or filing of electronic documents shall supersede the provisions of this subsection.

(c) No later than July 1, 2013, the public utilities commission shall accept any application, complaint, pleading, brief, or other document required to be filed with the commission pursuant to this chapter as either a paper document or an electronic document.

(d) If a signature is required on any document submitted electronically pursuant to this section, that requirement shall be satisfied by the inclusion of an electronic signature. Chapter 489E shall apply to all electronic documents submitted pursuant to this section.

(e) Communications, correspondence, and service of orders and other official documents shall be made upon the water carrier, complainant, and any other party at the last recorded mailing or electronic mail address on file with the commission. Proof of service by certified or registered mail or by electronic transmission to the last known mailing or electronic mail address shall constitute a valid service of any communication, correspondence, order, or other official document."

SECTION 8. Section 271G-8, Hawaii Revised Statutes, is amended to read as follows:

"[H]§271G-8 Reports and decisions of commission. Whenever the public utilities commission inquires into the operations, operating rights, rates, safety of operations, or directs inquiry and investigation into water carrier activities regulated under this chapter, and holds public hearing thereon, it shall make a report in writing, on paper or an electronic copy, in respect thereto, [which] that shall state its findings of fact and conclusions of law, together with its decision, order, or requirement in the premises. The provisions of chapter 91 shall apply."

SECTION 9. Section 271G-19, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

"(e) In addition to any other remedy available, the commission or its enforcement officer may issue citations to persons acting in the capacity of or engaging in the business of a water carrier within the State, without having a certificate of public convenience and necessity or other authority previously obtained under and in compliance with this chapter and the rules adopted thereunder~~[-]~~, as follows:

- (1) The citation may contain an order of abatement and an assessment of civil penalties of not less than \$100 nor more than \$500 for each offense and, in the case of a continuing violation, not less than \$200 nor more than \$500 for each day that uncertified activity continues. All penalties collected under this subsection shall be deposited in the treasury of the State. Service of a citation issued under this subsection shall be made by personal service [whenever possible, or by]; electronic service; certified mail, restricted delivery, sent to the last known business or residence address; or electronic mail to the address of the person cited~~[-]~~;

- (2) Any person served with a citation under this subsection may submit a written request, on paper or electronically, to the commission for a hearing within twenty days from the receipt of the citation, with respect to the violations alleged, the scope of the order of abatement, and the amount of civil penalties assessed. If the person cited under this subsection timely notifies the commission of the request for a hearing, the commission shall afford an opportunity for a hearing under chapter 91. The hearing shall be conducted by the commission, or the commission may designate a hearings officer to hold the hearing[-];
- (3) If the person cited under this subsection does not submit a written request, on paper or electronically, to the commission for a hearing within twenty days from the receipt of the citation, the citation shall be deemed a final order of the commission. The commission may apply to the appropriate court for a judgment to enforce the provisions of any final order issued by the commission or designated hearings officer pursuant to this subsection, including the provisions for abatement and civil penalties imposed. In any proceeding to enforce the provisions of the final order of the commission or designated hearings officer, the commission need only show that the notice was given, a hearing was held, or the time granted for requesting the hearing has run without a request, and a certified copy of the final order of the commission or designated hearings officer[-]; and
- (4) If any party is aggrieved by the decision of the commission or the designated hearings officer, the party may appeal, subject to chapter 602, in the manner provided for civil appeals from the circuit courts; provided that the operation of an abatement order shall not be stayed on appeal unless specifically ordered by a court of competent jurisdiction after applying the stay criteria enumerated in section 91-14(c). ~~[The]~~

The sanctions and disposition authorized under this subsection shall be separate and in addition to all other remedies, either civil or criminal, provided in any other applicable statutory provision. The commission may adopt rules under chapter 91 as may be necessary to fully effectuate this subsection.”

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval.

(Approved July 3, 2023.)