

**RULES
OF
TENNESSEE PUBLIC UTILITY COMMISSION**

**CHAPTER 1220-01-04
ACCESS TO PUBLIC RECORDS HELD BY THE COMMISSION**

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1220-01-04-.01 PURPOSE AND SCOPE.

- (1) Pursuant to Tenn. Code Ann. § 10-7-503(g), the purpose of the following public records rules are to provide timely and efficient access to public records of the Commission while at the same time preserving the confidentiality and protection of records or information as provided under state and federal law.
- (2) The Tennessee Public Records Act provides that all state public records shall, at all times during regular business hours, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law.
- (3) Through the Public Records Request Coordinator identified in this Rule below, the Tennessee Public Utility Commission shall timely and efficiently provide access and assistance to persons requesting to view or receive copies of public records. No provisions of this Rule shall be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the Commission, shall be protected as provided by current law. Questions about these Rules should be addressed to the Commission's Public Records Request Coordinator or to the Tennessee Office of Open Records Counsel ("OORC").

Authority: T.C.A. §§ 10-7-503 and 65-2-102. **Administrative History:** Original rules filed March 4, 2019; effective June 2, 2019.

1220-01-04-.02 DEFINITIONS.

- (1) "Commission" or "TPUC" means the Tennessee Public Utility Commission.
- (2) "Public Record" means all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency.
- (3) "Public Records Request Coordinator" or "PRRC" means the individual(s) whose responsibility it is to ensure public record requests are routed to the appropriate records custodian and fulfilled in accordance with the Tennessee Public Records Act. The PRRC is the Commission's Docket and Records Manager within the Legal Division.
- (4) "Records Custodian" means the office, official, or employee lawfully responsible for the direct custody and care of a public record. The records custodian is not necessarily the original preparer or receiver of the record.

(Rule 1220-01-04-.02, continued)

- (5) "Requestor" means a citizen of the State of Tennessee seeking access to a public record, whether for inspection or duplication.
- (6) "Tennessee Public Records Act" or "TPRA" means the State law codified in T.C.A. §§ 10-7-503, *et seq.*

Authority: T.C.A. §§ 10-7-503 and 65-2-102. **Administrative History:** Original rules filed March 4, 2019; effective June 2, 2019.

1220-01-04-.03 REQUESTS FOR ACCESS TO PUBLIC RECORDS.

- (1) Public record requests, whether written or oral, shall be made to the PRRC or designee so as to ensure that such requests are routed to the appropriate records custodian and fulfilled in a timely manner.
- (2) Public record requests shall include the following information clearly and concisely expressed:
 - (a) Name and Tennessee contact information, including telephone and email address (in order to provide any communication required under the TPRA);
 - (b) Detailed description of the records being requested, including type, time frame, subject matter or key words, and any other information identifying the records;
 - (c) Statement whether the request is for inspection or receipt of copies, or both; and
 - (d) Delivery preference if requesting copies.
- (3) Proof of Tennessee citizenship by the presentation of a valid, unexpired state government-issued photo identification is required in order to inspect or receive copies of public records. If a person does not possess photo identification or validity of the identification is in question, the PRRC may require other forms of identification. Upon a satisfactory showing, such proof of state citizenship will not be kept or retained by the PRRC. If copies of documentation are provided by mail or electronically to the PRRC, after verification, the information will be disposed of in such a way as to maintain the confidentiality of the information.
- (4) Requests for access to inspect public records maintained or received by the Commission may be made to the PRRC in-person, by mail, telephone, fax, or email.
- (5) Requests for copies, or requests for inspection and copies of public records, shall be made in writing. A requestor may use the TPUC Public Records Request form available on the TPUC website. If the TPUC Public Records Request form is not used, the written request must still contain all information required under (2) of this section.
- (6) Requests not made in an appropriate manner or requests that are not directed to the PRRC as provided herein, will not be accepted. Requests made via any method other than those prescribed herein will not be accepted.
- (7) The contact information for the PRRC is as follows:

Tennessee Public Utility Commission
ATTN: Docket & Records Manager/Public Records Request Coordinator
Andrew Jackson State Office Building,
502 Deaderick Street, 4th Floor
Nashville, Tennessee 37243

(Rule 1220-01-04-.03, continued)

Phone: 615-770-6850

Fax: 615-741-9934

Email: TPUCRecRequest@tn.gov

- (8) Any changes to the contact information for the PRRC shall be posted on the TPUC's website.

Authority: T.C.A. §§ 10-7-503 and 65-2-102. **Administrative History:** Original rules filed March 4, 2019; effective June 2, 2019.

1220-01-04-.04 RESPONSES TO REQUESTS FOR PUBLIC RECORDS.

- (1) Public Records Request Coordinator.

- (a) The PRRC shall review public records requests and make a determination of the following:

1. Whether the requester has provided evidence of Tennessee citizenship pursuant to Rule 1220-01-04-.03(3);
2. Whether the records requested are described with sufficient specificity to identify them;
3. Whether the TPUC is the custodian of the records; and
4. Whether the records requested, or any of their contents, are protected and, thus, not subject to disclosure based on applicable federal or state law or rules.

- (b) The PRRC shall acknowledge receipt of the request and take any of the following appropriate actions:

1. Inform the requester of this rule chapter and the determinations made regarding:
 - (i) Evidence of Tennessee citizenship;
 - (ii) Fees (and labor threshold and waivers, if applicable);
 - (iii) Aggregation of multiple or frequent requests; or
 - (iv) Need for clarification of the request(s).
2. As appropriate, deny the request in writing and provide the appropriate ground(s) for denial, which may include:
 - (i) The requester is not a Tennessee citizen or has not presented evidence of Tennessee citizenship;
 - (ii) The request lacks specificity. The Commission may work with a requestor to clarify the request;
 - (iii) An exemption makes the requested record protected from disclosure;
 - (iv) TPUC is not the custodian of the requested records;
 - (v) The records requested do not exist; or,
 - (vi) Any other legal grounds for denial.

(Rule 1220-01-04-.04, continued)

3. As appropriate, contact the requestor to see if the request can be narrowed or otherwise clarified.
 4. Forward the records request to the appropriate records custodian within TPUC.
 5. If requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, advise the requestor of the correct governmental entity and PRRC for that entity, if known.
- (2) Records Custodian.
- (a) Upon receiving a public records request, a TPUC records custodian in collaboration with the PRRC shall gather the requested public records in accordance with Tenn. Code Ann. § 10-7-503. Before making the records available, General Counsel or his/her designee shall conduct a review to ensure the preservation of confidential or protected information as provided in state and federal law.
 - (b) If it is not practicable to promptly provide the requested records, the records custodian in collaboration with the PRRC shall, within seven (7) business days from the records custodian's receipt of the request, direct the PRRC to send the requestor a written response indicating the reason for the delay and an estimate of the additional time necessary to produce the records or information. Reasons for delay may include:
 1. To determine whether the requested records exist;
 2. To search for, retrieve, or otherwise gain access to records;
 3. To determine whether all or part of the records are open or confidential;
 4. To redact records; or
 5. For other similar reasons.
 - (c) If a records custodian in collaboration with the PRRC denies a public records request, the PRRC shall deny the request in writing.
 - (d) If a records custodian in collaboration with the PRRC reasonably determines that production of records should be segmented because the records request is for a large volume of records, or additional time is necessary to prepare the records for access, the PRRC's response shall notify the requester that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable. As appropriate, the records custodian or PRRC should contact the requester to see whether the request can be narrowed.
 - (e) If a records custodian discovers that records responsive to a request were omitted, the records custodian shall promptly contact the PRRC concerning the omission and produce the records as quickly as practicable. The PRRC will contact the requestor and supplement the records response.

Authority: T.C.A. §§ 10-7-503, 10-7-504, and 65-2-102. **Administrative History:** Original rules filed March 4, 2019; effective June 2, 2019.

1220-01-04-.05 REDACTION OF RECORDS.

- (1) If a record contains confidential information, or information that is not open for public inspection, the PRRC or the records custodian shall prepare a redacted copy of the record and consult with General Counsel or his/her designee before providing access to the records.
- (2) Whenever a redacted record is provided, the PRRC will provide the requestor with the general basis for redaction without revealing confidential or protected information.

Authority: T.C.A. §§ 10-7-503, 10-7-504, 10-7-515, and 65-2-102. **Administrative History:** Original rules filed March 4, 2019; effective June 2, 2019.

1220-01-06-.06 INSPECTION AND COPIES.

- (1) For inspection of public records:
 - (a) There shall be no charge for the inspection of public records.
 - (b) The location for inspection of public records will be in the office location of the PRRC in Nashville and such inspection will occur during the Commission's normal business hours.
 - (c) Under reasonable circumstances, the PRRC may require an appointment for inspection or may require inspection of records at an alternate location.
- (2) If after viewing the records, a requestor wishes to obtain copies, the Commission will make copies and assess charges in accordance with Rule 1220-01-04-.07, or copies may be made as follows:
 - (a) A requestor may use a personal camera or cell phone to take a photograph of a public record so long as the organization and integrity of the record is maintained. If a record contains confidential or protected information, the record may not be photographed until all appropriate redactions are completed.
 - (b) The requestor will not be allowed to connect any personal equipment to a TPUC computer or electronic device, including but not limited to utilizing a flash drive, in order to make copies of public records.
- (3) Upon receipt of a request for copies of open public records, the Commission shall calculate the cost based on copy and labor charges for the entire request, or pro-rate the charges on a per page basis and promptly make the copies available to the requestor in the following manner:
 - (a) For pickup at a location specified by the PRRC;
 - (b) By regular mail delivery through the United States Postal Service to the requestor's home or other acceptable address within Tennessee; or
 - (c) Electronic records that can be sent in a single transmission will be sent by email, except when such records include personally identifiable information.

Authority: T.C.A. §§ 10-7-503 and 65-2-102. **Administrative History:** Original rules filed March 4, 2019; effective June 2, 2019.

1220-01-04-.07 FEES, PAYMENT, AND WAIVERS.

- (1) The Commission shall assess charges for copying and labor required to produce copies of the requested public records based on the most current version of the Schedule of Reasonable Charges issued by the OORC. The Schedule of Reasonable Charges is available on the Tennessee Comptroller of the Treasury's website on the OORC page.
- (2) The PRRC will provide requestors with an itemized written estimate of the charges prior to producing copies of records. Requestors must pay the estimate before the records will be released.
- (3) When fees for copies and labor do not exceed ten dollars (\$10.00), the fees may be waived by the PRRC.
- (4) Fees associated with aggregated record requests will not be waived.
- (5) Payment of charges shall be payable to the Commission by cashier's check, money order, or other reliable means determined by the TPUC, and delivered as specified by the PRRC.

Authority: T.C.A. §§ 10-7-503 and 65-2-102. **Administrative History:** Original rules filed March 4, 2019; effective June 2, 2019.

1220-01-04-.08 AGGREGATION OF FREQUENT AND MULTIPLE REQUESTS.

- (1) TPUC will aggregate record requests for records of TPUC when four (4) or more requests are received within a calendar month either from a single individual or a group of individuals deemed working in concert by the PRRC.
- (2) The PRRC is responsible for making the determination that a group of individuals are working in concert, and upon such determination, shall inform the individuals that they have been deemed to be working in concert and that requests will be aggregated.
- (3) Routinely released and readily accessible records shall be excluded from aggregation. Such records include, but are not limited to, any public docket filings, notices, orders, agendas, meeting minutes, and other materials that are accessible on the Tennessee Public Utility Commission's website.

Authority: T.C.A. §§ 10-7-503 and 65-2-102. **Administrative History:** Original rules filed March 4, 2019; effective June 2, 2019.

1220-01-04-.09 FAILURE TO INSPECT OR FAILURE TO PAY FOR COPIES.

- (1) If a requestor makes two (2) or more requests to view a public record within a six-month period and, for each request, the requestor fails to view the public record within fifteen (15) business days of receiving notification that the record is available to view, or misses two (2) or more scheduled appointments to view, TPUC will not comply with any public records request from the requestor for a period of six (6) months from the date of the second request to view the public record unless the TPUC determines failure to view the public record was for good cause.
- (2) If, after agreeing to pay an estimated cost prior to the production of copies, a requestor fails to pay the cost to produce the requested copies, TPUC will not comply with any public record requests from the requestor until payment is received.

Authority: T.C.A. §§ 10-7-503 and 65-2-102. **Administrative History:** Original rules filed March 4, 2019; effective June 2, 2019.