

[NTC, January 05, 1993]

**REVISED RULES OF PRACTICE AND PROCEDURE BEFORE THE
NATIONAL TELECOMMUNICATIONS COMMISSION**

Pursuant to the provisions of Executive order No. 546 dated July 23, 1979, the following revised Rules of Practice and Procedure before the National Telecommunications Commission are hereby adopted and promulgated.

PART I

General Provisions

RULE 1

Title and Construction

SECTION 1. Title — These rules shall be known and cited as the Revised Rules of Practice and Procedure before the National Telecommunications Commission.

SECTION 2. Scope — These rules govern pleadings, practice, and procedure before the National Telecommunications Commission in all matters of hearing, investigation, and proceedings within the jurisdiction of the Commission. However, in the broader interest of justice and in order to best serve the public interest, the Commission may, in any particular matter, except it from these rules and apply such suitable procedure to improve the service in the transaction of the public business, as well as in the disposition of cases filed before it.

SECTION 3. Nature and Construction — These rules are summary in nature. They shall be liberally construed to protect and promote public interest and to assist the parties in obtaining, just, speedy, and inexpensive determination of every action or proceeding.

SECTION 4. Definitions — For purposes of these rules, the terms:

- a. Revised Rules shall mean the amended Revised Rules of Practice and Procedure before the National Telecommunications Commission.
- b. Commission shall refer to the National Telecommunications Commission.
- c. Act shall refer to Executive Order No. 546 dated July 23, 1979.

SECTION 5. Suppletory application of the Rules of Court and Jurisprudence — In the absence of any applicable provision in these Revised Rules, and in order to effectuate the objectives of Sections 14 to 16 of Executive Order No. 546 the pertinent provisions of the Revised Rules of Court of the Philippines and prevailing jurisprudence may, in the interest of expeditious disposition of cases pending before it and, whenever practicable and convenient, be applied by analogy or in a

supplementary character and effect.

RULE 2 Parties

SECTION 1. Applicant and Oppositor — Any person applying to the Commission for a Certificate of Public Convenience and/or Necessity for the operation of public communication utilities and services or for any form of authorization within the regulatory powers of the Commission shall be called the Applicant.

Any person having a substantial interest capable of pecuniary estimation in the application or the subject matter thereof adverse to the applicant and who opposes the application shall be called the Oppositor.

SECTION 2. Complainant and Respondent — Any aggrieved person/s who files a complaint with the Commission shall be called complainant/s and the public service operator complained of shall be called respondent.

SECTION 3. Petitioner and Respondent — In petitions seeking preventive remedies for violation of certificate of public convenience and/or necessity or any form of authorization or relief from orders, rulings, regulations, standards, specifications or any act of the Commission, the one filing the petition shall be called the petitioner and the holder of the certificate of public convenience and/or necessity or authorization sought to be punished or the grantee of the order, authorization, ruling, regulations, standard, specification, or any act of the Commission from which relief is being sought shall be called the respondent.

SECTION 4. Appearance by Solicitor General — Whenever the Solicitor General appears in behalf of the public in applications for approval of rates, in this Commission, his appearance shall be considered as representative of all individuals, consumers, or users who have filed their written opposition to such applications and who are not represented by counsel.

SECTION 5. Appearance by Consumers or Users — If individual users or entities opposing the application for approval of rates are represented by several attorneys, they shall choose not more than two among themselves who shall be allowed by the Commission to conduct the proceedings in behalf of all the oppositors.

RULE 3 Pleadings

SECTION 1. Form — All pleadings shall be in any of the official languages typewritten or printed double space on legal size white bond paper, and shall be filed in quintuplicate with the Secretariat of the Commission. Every pleading shall have a caption, title, signature, and address and shall contain in logical form, a plain, concise, and direct statement of the ultimate facts in which the party relies.

SECTION 2. Verification and Supporting Documents — All pleadings shall be verified and shall be accompanied by affidavits of merit and such other documents as would substantially establish the truth of the factual allegations contained therein.

SECTION 3. Application — By means of an application, the applicant seeks

authorization or permission to undertake any matter within the regulatory power of the Commission under the Act and the issuance of certificate/s of public convenience and/or issuance of certificate/s of public convenience and/or necessity in appropriate cases. It shall state clearly and concisely the ultimate facts which the claimant claims are sufficient basis for granting the authorization or permission sought. It may add a general prayer for such further relief as may be deemed just and equitable.

SECTION 4. Complaint — The complaint is a concise statement of the ultimate facts of the matter complained of within the regulatory power of the Commission, and shall specify the relief sought.

SECTION 5. Petition — A petition may be filed by one who may be party to any hearing or proceedings, or is subject to the jurisdiction of the Commission concerning a controversy over any matter within the jurisdiction of the Commission.

SECTION 6. Answer — The respondent to whom an order is issued by the Commission to show cause or otherwise summoned to answer, shall file an answer in compliance therewith ten (10) days from receipt of the order. The answer shall admit or deny the material allegations of facts stated in the show cause order or in the complaint or petition. The respondent shall state the matters of fact and the law relied upon and shall attach to his answer such documents and affidavits in proof of his allegations.

The respondent may, in his answer, pray for the grant of an affirmative relief.

SECTION 7. Amendment — Pleadings may be amended as a matter of right before the case is set for hearing, and thereafter, they may be amended only with leave of the Commission.

If a responsive pleading has been filed by any oppositor or respondent, a copy of the amended pleading should be served to the oppositor or respondent. The latter may amend his opposition or answer within five (5) days from receipt of the amended application, complaint, or petition and thereafter only with leave of the Commission.

SECTION 8. Amendments to Conform to the Evidence — Whenever at a hearing, issues not raised by the pleadings are introduced by the express or implied consent of the parties, they shall be treated in all respects as if they have been raised in the pleadings. If evidence upon new issues is objected to on the grounds that it is not within the issues raised in the pleadings, the Commission may allow the pleadings to be amended and such evidence received when it appears that the presentation of the merits of the proceeding will be served thereby without prejudicing the public interest or the rights of the parties. The Commission may grant a continuance to enable the objecting party to meet such evidence.

SECTION 9. Directed Amendments — The Commission, may at any time, on its own motion or upon motion of any party, direct a party to amend his pleading in order to state his case more fully or in a more detailed manner. Such amendment shall be reduced to writing and filed within such time as may be fixed, and shall comply with the requirements of the rule pertaining to the pleading amended insofar as appropriate.

SECTION 10. Withdrawal of Pleadings — At any time, before a responsive pleading is filed, a party may withdraw his pleading by filing notice thereof with the Secretariat of the Commission. Likewise, any oppositor may withdraw his opposition at any time subject however to the approval of the Commission.

RULE 4 Motions

SECTION 1. Scope and Contents — Every application for any procedural or interlocutory ruling or relief sought may be made by a motion. The motion shall set forth the ruling or relief and state the grounds therefor, and may be accompanied by supporting affidavits and documents. The requirements of Rule 3 shall apply to all written motions. However, every ancillary motion for provisional authorization or proposed services or rates shall be governed by Section 3 of Rule 15.

SECTION 2. Form — Unless made in the course of hearing, all motions shall be in writing and copies thereof shall be served upon all parties at least three (3) working days before the hearing thereof. Motions during hearings may be stated orally upon the record, unless the Commission requires that such motion be reduced to writing and filed separately.

SECTION 3. Notice — Written motions shall contain a notice setting the hearing thereof at a specified date and time. However, for good cause shown, the Commission may hear a motion on shorter notice.

SECTION 4. Proof of Service — The Commission shall not act upon any motion without proof of service of notice thereof on all parties, except when the Commission is satisfied that the rights of the adverse party or parties are not affected. When the service of notice is made by mail, the addressee is deemed to have received the notice within ten (10) days from the date of mailing if the addressee resides in Luzon, fifteen (15) days if the addressee resides in Visayas and Mindanao. Submission of registry receipts together with the affidavit of mailing is sufficient compliance with the proof of service required herein.

SECTION 5. Ex-parte Motions — Except for motions for provisional authorization of proposed services and increase of rates, ex-parte motions shall be acted upon by the Commission only upon showing of urgent necessity therefor and the right of the opposing party is not substantially impaired.

SECTION 6. Evidence on Motion — Allegation of facts in a motion or in a opposition thereto not appearing of record may be proved by affidavits or sworn documents, but the Commission may require that the matter be heard wholly or partly on oral testimony.

RULE 5 Filing, Service of Pleading and Publication

SECTION 1. Filing — All pleadings, motions, documents, and other papers required or allowed shall be filed with the Secretariat of the Commission.

SECTION 2. Acceptance for Filing — Only pleadings, motions, documents, and other papers which conform to the formal requirements of these Rules shall be accepted for filing. Acceptance for filing shall not waive any failure to comply with the Rules and such failures may be cause for striking all or part of such paper filed.

SECTION 3. Service Upon Parties — All pleadings, documents, and other papers tendered to the Secretariat of the Commission for filing shall show proof of service thereof upon all parties to the proceeding. Such service shall be made by personal delivery or by registered mail, properly addressed, with postage prepaid, of one (1) confirmed copy to each party, together with all annexes attached thereto.

SECTION 4. Service Upon Parties Represented by Attorneys — When any party has appeared by attorney, service upon him shall be made upon his attorney or any of his attorneys of record.

SECTION 5. Service of Orders — All decisions, orders, and resolutions of the Commission shall be served upon all parties who have entered their appearance, either by personal delivery or by mailing copies thereof to their counsel, if any; otherwise, upon the parties.

SECTION 6. Extension of Time — Whenever by any order of the Commission, a pleading, motion or document is required to be filed within a fixed time or period, the Commission may, for good cause shown, extend the period upon motion made before the expiration of the period fixed. The Commission may, upon such terms as may be just, allow or admit any pleading to be filed after the time fixed by these Rules.

PART II Procedure in Application

RULE 7 Application

SECTION 1. How Commenced — Any proceeding the object of which is to obtain a certificate of public convenience or any form of authorization shall be commenced by the filing of the corresponding application and the payment of the required fee.

SECTION 2. Content — The application shall contain a concise statement of the service proposed or authorization applied for, and the ultimate facts that would qualify or entitle the applicant to the grant of the certificate, privilege, or authorization applied for.

When the application is predicated on a franchise, sale, lease, mortgage, or any other contract, such franchise or contract shall be impleaded in the application by alleging in substance its salient provisions and appending to the application a copy of the franchise and contract.

RULE 8 Notice of Hearing

SECTION 1. Duty of the Secretariat of the Commission — After the filing of the application and the payment of the required fees, the Secretariat of the Commission