

54-4-4 Classification and fixing of rates after hearing.

- (1)
 - (a) The commission shall take an action described in Subsection (1)(b), if the commission finds after a hearing that:
 - (i) the rates, fares, tolls, rentals, charges, or classifications demanded, observed, charged, or collected by any public utility for, or in connection with, any service, product, or commodity, including the rates or fares for excursion or commutation tickets, or that the rules, regulations, practices, or contracts affecting the rates, fares, tolls, rentals, charges, or classifications are:
 - (A) unjust;
 - (B) unreasonable;
 - (C) discriminatory;
 - (D) preferential; or
 - (E) otherwise in violation of any provisions of law; or
 - (ii) the rates, fares, tolls, rentals, charges, or classifications described in Subsection (1)(a)(i) are insufficient.
 - (b) If the commission makes a finding described in Subsection (1)(a), the commission shall:
 - (i) determine the just, reasonable, or sufficient rates, fares, tolls, rentals, charges, classifications, rules, regulations, practices, or contracts to be thereafter observed and in force; and
 - (ii) fix the determination described in Subsection (1)(b)(i) by order as provided in this section.
- (2) The commission may:
 - (a) investigate:
 - (i) one or more rates, fares, tolls, rentals, charges, classifications, rules, regulations, contracts, or practices of any public utility; or
 - (ii) one or more schedules of rates, fares, tolls, rentals, charges, classifications, rules, regulations, contracts, or practices of any public utility; and
 - (b) establish, after hearing, new rates, fares, tolls, rentals, charges, classifications, rules, regulations, contracts, practices, or schedules in lieu of them.
- (3)
 - (a) If in the commission's determination of just and reasonable rates the commission uses a test period, the commission shall select a test period that, on the basis of evidence, the commission finds best reflects the conditions that a public utility will encounter during the period when the rates determined by the commission will be in effect.
 - (b) In establishing the test period determined in Subsection (3)(a), the commission may use:
 - (i) a future test period that is determined on the basis of projected data not exceeding 20 months from the date a proposed rate increase or decrease is filed with the commission under Section 54-7-12;
 - (ii) a test period that is:
 - (A) determined on the basis of historic data; and
 - (B) adjusted for known and measurable changes; or
 - (iii) a test period that is determined on the basis of a combination of:
 - (A) future projections; and
 - (B) historic data.
 - (c) If pursuant to this Subsection (3), the commission establishes a test period that is not determined exclusively on the basis of future projections, in determining just and reasonable rates the commission shall consider changes outside the test period that:
 - (i) occur during a time period that is close in time to the test period;

- (ii) are known in nature; and
 - (iii) are measurable in amount.
- (4)
- (a) If, in the commission's determination of just, reasonable, or sufficient rates, the commission considers the prudence of an action taken by a public utility or an expense incurred by a public utility, the commission shall apply the following standards in making its prudence determination:
 - (i) ensure just and reasonable rates for the retail ratepayers of the public utility in this state;
 - (ii) focus on the reasonableness of the expense resulting from the action of the public utility judged as of the time the action was taken;
 - (iii) determine whether a reasonable utility, knowing what the utility knew or reasonably should have known at the time of the action, would reasonably have incurred all or some portion of the expense, in taking the same or some other prudent action; and
 - (iv) apply other factors determined by the commission to be relevant, consistent with the standards specified in this section.
 - (b) The commission may find an expense fully or partially prudent, up to the level that a reasonable utility would reasonably have incurred.

Amended by Chapter 11, 2005 General Session