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§ 720-1.1 Definitions

(a) The term public utility when used in this Part means an electric corporation, a gas corporation, a steam corporation, a telephone corporation, or a water-works corporation as defined in section 2 of the Public Service Law; a municipality providing utility service; and common carriers.

(b) The term municipality means a municipal corporation subject to the Commission's jurisdiction that furnishes electricity, gas, or steam to the public.

(c) Any period of notice required in this Part shall begin on and include the date the schedule is received by the Commission, but shall not include the effective date. In computing the notice required, Saturdays, Sundays and holidays shall be counted.

(d) The term filing refers to either an electronic filing made through the Electronic Tariff System (ETS) or a paper or hard copy filing of documents.

(e) As applied to electric, gas, and steam corporations and municipalities:

(1) Metropolitan district means the counties of New York, Bronx, Kings, Queens, Richmond, Putnam, Nassau, Suffolk, Westchester, Orange and Rockland.

(f) As applied to telephone corporations, the terms:

(1) Exchange schedule means a schedule containing the specific rates, charges, rules, and regulations for local service in each exchange operated by a single telephone corporation.

(2) General schedule means a schedule containing the general rates and charges and the governing rules and regulations for communication services and facilities in the several exchanges operated by a single telephone corporation.

(3) Joint schedule means a schedule containing rates and charges for any kind of telephone service rendered by more than one telephone corporation participating in such rates and charges.

(4) Local schedule means an individual schedule of a telephone corporation containing rates, charges, rules, and regulations for any kind of service which is rendered entirely by the issuing corporation.

(5) Toll schedule means a schedule containing the rates, charges, rules, and regulations for telephone service between stations in one local calling area and those in another local calling area.

§ 720-1.2 Exceptions

This Part does not apply to:

(a) a contract between a municipality, an electric, gas or a steam corporation, and State, municipal, or Federal authorities, under which electricity, gas, or steam is furnished for State, municipal, or Federal use and not for resale;

(b) a contract between telephone corporations; or

(c) a contract for the sale of water by a waterworks corporation to State, municipal, or Federal authorities.

§ 720-1.3 Filing of schedules

(a) Except as otherwise provided by section 720-4, every public utility shall file schedules with the Commission showing all rates and charges made, established, or enforced, or to be charged or enforced, all forms of contract or

agreement, and all rules and regulations relating to rates, charges or service used or to be used. This information shall be readily accessible to the public during normal business hours.

(b) In the case of an individual or partnership doing business under an assumed name, both the assumed name and that of the individual or partnership shall be shown.

(c) Suitable notice shall be provided to consumers as to how a utility's tariff schedule may be accessed. Such schedules shall contain those leaves, supplements, and statements which are in effect or are proposed to take effect in the future, including schedules filed with the Commission but not yet effective.

(d) All schedules legally filed with the Commission shall continue in force until legally changed. The Commission may direct the reissue or modification of any schedule, or any part of a schedule, at any time.

(e) Schedules containing joint toll rates or charges participated in by telephone corporations not subject to the jurisdiction of this Commission shall be filed by the telephone corporation which is subject to the jurisdiction of the Commission.

(f) A telephone corporation issuing a joint publication shall send copies to each telephone corporation party thereto as soon as issued. Joint publications may be issued only when duly executed powers of attorney or concurrences have been filed with the Commission.

§ 720-1.4 Filing of Contracts

(a) Contracts between public utilities for the sale, purchase, or interchange of electricity, gas, steam, or water need not be executed according to rate schedules filed as required by section 720-1.3 when such contracts are limited to service to be used by the purchasing utility in the conduct of its utility business (including supply to concessionaires who occupy space in the property of such utility and who furnish service for the convenience of the customers of said utility) or to be supplied to another public utility for use in a utility business. All other contracts for the sale, purchase, or interchange of electricity, gas, steam, or water must be executed according to the provisions in appropriate service classifications duly filed and posted. Two copies, including one certified copy, of all such contracts not executed according to service classifications in rate schedules shall be filed by the purchase with the Commission not later than 30 days after execution. If the purchaser is not subject to the jurisdiction of the Commission, such copies shall be filed by the party which is subject to the jurisdiction of the Commission. Contracts so filed shall be numbered in consecutive order by the party filing them.

(b) Contracts, which by reference include provisions of tariffs filed with the Federal Energy Regulatory Commission, shall be accompanied by copies of such provisions. Whenever revisions are made to the tariffs filed with the Federal Energy Regulatory Commission which affect the terms of the contract, these revisions shall also be filed with the contracts.

(c) Copies of contracts shall have a title page on which shall be shown the information set forth in Section 720-1.5 of this Part.

§ 720-1.5 Appendix: Form for Title Page of Contracts

(Applicable to contracts filed in accordance with 16 NYCRR §§ 720.1)

Contract No. _____
Superseding Contract No. _____

(Utility Filing Contract)

With

(Other Parties to Contract)

*REDACTED COPY - CONFIDENTIAL TRADE SECRET STATUS
REQUESTED

**Type of contract _____
 Term _____
 Date of Execution _____
 Date Effective _____

* Enter only if applicable

**Types of Contracts

-- Electric --	-- Gas --
Purchase (Energy - Capacity)	Purchase:
Independent Power Producer	Short Term Less than 1 year
	Intermediate 1-5 years
Sale (Energy – Capacity)	Long Term Over 5 Years
Interchange	Spot Purchase
Interconnect	Sale
	Capacity Assignment
Wheeling	Transportation

§ 720-1.6 Responsibility for Filing

(a) Each public utility shall file copies of its schedules with the Commission, in a form prescribed by the Department of Public Service, showing all rates and charges made, established, or enforced, or to be charged or enforced, all forms of contract or agreement, except as provided in section 720-1.4, and all related rules and regulations. The acknowledgment of the receipt of any schedule by the Commission, or the fact that any schedule, amendment, supplement, or statement is on file with the Commission shall be without prejudice to investigation and subsequent determination by the Commission as to its lawfulness, either upon complaint or on its own motion, and without prejudice to suspension, change, or rejection as may be provided by law.

(b) Corporations and municipalities shall file schedules and contracts as provided under this Part immediately upon becoming subject to the jurisdiction of the Commission.

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§ 720-2.1 Number of Copies

(a) Public utilities shall file a copy of all schedules, amendments, statements, supplements, and addenda.

(b) All schedules, amendments, supplements, statements and addenda, shall be accompanied by a letter of transmittal using a format specified in the Department of Public Service's Electronic Tariff System: Utility Preparer's Guide.

§ 720-2.2 Information to Accompany Letter of Transmittal

In the case of schedules or amendments, except those published under authority of an order of the Commission, each letter of transmittal shall be accompanied by the following information.

(a) The changes which are proposed to be made and the reason for each change.

(b) An estimate of the following items in connection with each service classification or rate table in which any change is made in rates, rentals, or charges, together with a statement of the nature and extent of the data upon which such estimate is based:

- (1) The number of customers or customers' bills increased.
- (2) The number of customers or customers' bills decreased.
- (3) The number of customers or customers' bills not affected.
- (4) The gross increase in revenues.
- (5) The gross decrease in revenues.

(c) When a new service classification or service offering is filed covering a new territory or providing for service to new customers only, so that there is no change in any existing service classification or service offering and no transfer of customers from an existing service classification or service offering to the new one, the above information need not be furnished, but a statement shall be filed stating the purpose and reason for the new service classification or service offering, the basis for the rates, the estimated annual revenue to be derived, and the estimated number of customers to be served.

§ 720-2.3 Notice Required

(a) Except as provided by Sections 720-2.4, 720-5.1, 720-5.2, 720-5.3, and 720-5.4 of this Part, and excluding the initial tariff filing in major rate cases, every schedule, amendment, statement, supplement, or addenda which requires compliance with the State Administrative Procedure Act shall be filed with the Commission, with an effective date no earlier than 45 days after publication of the filing in the State Register. Telecommunications companies non-basic filings shall be filed at least 10 days prior to the date on which they are proposed to be effective. Any other filing, including the initial tariff filing in a major rate case, shall be filed not less than 30 days prior to the date on which it is proposed to be made effective.

(b) A request to postpone the effective date of a schedule previously filed shall be made to the Secretary. The Secretary is delegated the authority to approve changes to filed schedules which postpone the effective date of such filed schedules and to allow such postponement to take effect, for good cause shown, on less than thirty days' notice to the

Commission and without publication of notice to the public. The procedure set forth in Subdivisions (b) through (d) of Section 720-2.4, shall be followed to effectuate the postponement of the effective date of a filed schedule.

§ 720-2.4 Short Notice

(a) Except as provided in Subdivision (b) of Section 720-2.3, the power of the Public Service Commission to permit changes in existing schedules on less than 30 days' notice will be exercised only in cases where an emergency or other justifying conditions are demonstrated.

(b) Any public utility desiring to change an existing schedule on less than 30 days' notice shall file with the Commission a schedule, amendment, or supplement containing the proposed change, bearing an effective date not less than 30 days after filing, and an application as prescribed in Section 720-2.5 requesting authority to put such schedule, amendment, or supplement into effect at an earlier date.

(c) If the application is granted, a special permission order will be issued specifying the date on which the schedule, amendment, or supplement shall become effective.

(d) On schedules, amendments, statements, supplements, or addenda authorized to be made effective on less than 30 days' notice (10 days for telecommunications non-basic service), a notation in the following form (on each leaf in the case of an entire schedule) shall be shown:

EFFECTIVE under authority of PSC (order no.) made (order issuance date).

§ 720-2.5 Appendix: Form for Application for Short Notice

(Name of Corporation or Municipality)

Public Service Commission

3 Empire State Plaza

(Date)

Albany, New York 12223-1350

_____, hereby applies under
(Name of Public Utility)

Subdivision 12 of Section 66 (Electricity or Gas)

or

Subdivision 10 of Section 80 (Steam)

or

Subdivision 10 of Section 89-c (Water)

or

Subdivision 2 of Section 92 (Telephone)

of the Public Service Law for permission to put the following in effect on _____:
(Date)

(Here list items for which permission is requested)

This application is based on the following special circumstances and conditions:

(Name of Public Utility)

By

(Signature of Officer)

(Title of Officer)

AFFIDAVIT

State of New York

County of _____

being duly sworn, says that (s)he is the officer named in the foregoing application that (s)he has read said application and knows the contents thereof, and that the same is true of his/her own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters (s)he believes it to be true.

*Subscribed and sworn to before me
this _____ day of _____*

(Name of Affiant)

(Notary Public)

§ 720-2.6 Short Notice - Resale of Telephone Service

The Public Service Commission has determined that it is in the public interest to permit liberal modification of service offerings within the limits authorized by a reseller's certificate of public convenience and necessity. It has also determined that it is in the public interest to permit rates for resale of telephone services to fluctuate freely between the maximum and minimum rates established in filed tariffs. Because good cause for flexibility in service offerings and rates has been shown for this industry, changes in the maximum and minimum rates, except major rate changes as defined by Public Service Law, Section 92(2), may become effective immediately upon compliance with the notice provisions of *State Administrative Procedure Act, Section 202*. All companies increasing or decreasing a charge within the applicable maximum and minimum rates or making a service change shall notify affected customers and the Commission of the new charge or service change no later than the date the charge is first applied or the date the service change is first implemented.

§ 720-3.1 Designation

Electric, gas, steam, water, and telephone schedules shall be issued in separate series. The schedules in each series shall be numbered in consecutive order. The schedule number shall have as a prefix "P.S.C. No.", and as a suffix "Electricity, Gas, Steam, Water or Telephone", as appropriate. The schedule or schedules to be superseded, if any, shall be shown.

§ 720-3.2 Arrangement

Schedules shall be prepared and arranged as follows:

- (a) Title Page;
- (b) Table of Contents;
- (c) General Information;
- (d) Service Classifications or Rate Tables;
- (e) Statements;
- (f) Supplements;
- (g) Orders of the Commission;
- (h) Addenda.

§ 720-3.3 Preparation

(a) Tariff changes shall be made using a format specified in the Department of Public Service's Electronic Tariff System: Utility Preparer's Guide.

(b) Notations or markings shall not be made on any schedule, supplement, or statement, except as specifically provided for in sections 720-2.4, 720-5.1, 720-5.2, and 720-5.3.

(c) References to localities outside of the State of New York shall include the name of the state.

§ 720-3.4 Numbering of Leaves

Numbering of leaves shall follow a format specified in the Department of Public Service's Electronic Tariff System: Utility Preparer's Guide.

§ 720-3.5 Forms of Contract or Agreement

Except as provided under section 720-1.4 or where service is provided pursuant to contractual or arrangements between the customer and the utility (i.e., a "flex rate" contract) as may be authorized by the Commission, where a public utility requires an applicant to make written application for service, each form of contract or agreement shall provide for service under the regularly filed rates, charges, or rentals and shall be shown either as a part of each service classification or rate table to which it is applicable or under general information, with an appropriate reference in each service classification or rate table to which it is applicable. Each form shall show either therein or by reference to the schedule, the nature and extent of the service to be rendered, the rates and charges to be made, all rules and regulations applicable, and all privileges and facilities granted or allowed.

§ 720-3.6 Service Classifications and Rate Tables

(a) Each service classification and rate table shall be complete in itself, except that reference may be made to rules and regulations appearing in the general information section of the schedule or in a separate general information schedule. General rules and regulations appearing or referred to in a schedule under general information shall apply to service to be furnished under each service classification and rate table unless otherwise expressly provided. Any exception to the application of a general rule or regulation must be clearly stated.

(b) Service classifications shall be numbered consecutively beginning with No. 1. Rate tables shall be arranged by parts and alphabetically by exchange.

§ 720-4.1 Amendment of Schedules

Amendments shall be numbered using a format specified in the Department of Public Service's Electronic Tariff System: Utility Preparer's Guide.

§ 720-4.2 Additional Leaves, Service Classifications, and Rate Tables

Formats for additional leaves, service classifications, and rate tables shall follow a format specified in the Department of Public Service's Electronic Tariff System: Utility Preparer's Guide.

§ 720-4.3 Cancellations

(a) If the entire matter on a leaf is to be eliminated, a revised leaf shall be issued bearing a statement to that effect.

(b) The format to be used when cancelling a service classification or a schedule is specified in the Department of Public Service's Electronic Tariff System: Utility Preparer's Guide.

(c) If the type of service furnished under a canceled service classification is to be entirely discontinued, the superseding leaf shall read:

Service Classification No. _____ is cancelled.

§ 720-4.4 Numbering of Cancellations

If a schedule, amendment, supplement, or statement is cancelled, the number it bears shall not be used again.

§ 720-4.5 Substitutions or Withdrawals

No schedule, amendment, supplement, or statement duly filed with the Commission will be returned. No substitution for or withdrawal of any schedule, amendment, supplement, or statement filed with the Commission will be permitted.

§ 720-5.1 Ordered Revisions

When rates, charges, rules, or other tariff provisions are prescribed by Commission order, the changes shall be established by amendments to or reissue of the affected schedule or schedules. Each affected leaf shall bear the following notation:

"Issued in compliance with order in C. (case number) dated (mm/dd/yyyy; date of order)."

§ 720-5.2 Authorized Revisions

When rates, charges, rules, or other provisions are authorized to be filed by order of the Commission, the changes made shall be established by amendments to or reissuance of the affected schedule or schedules. Each affected leaf shall bear the following notation:

EFFECTIVE under authority of PSC (order no.) made (order issuance date).

§ 720-5.3 Adoption by Successor

(a) Upon the change of name or upon transfer of franchise or other operating rights from one public utility to another, the successor shall immediately file a notice adopting the publications issued under this Part and in effect (as described in Section 720-5.6) or issue new publications.

(b) A consecutively numbered supplement (which may be made effective as of the date filed with the Commission) shall be issued to each schedule then in effect by the successor public utility substantially as follows:

"Supplement No. _____ to P.S.C. No. _____ (Electricity, Gas, Steam, Water or Telephone), filed by (name of predecessor public utility).

The (name of public utility) hereby adopts, ratifies, and in every respect makes its own as if the same had been originally filed by it, P.S.C. No. _____ (Electricity, Gas, Steam, Water, or Telephone), filed with the Public Service Commission, State of New York, by (name of predecessor public utility)."

(c) Every adopted schedule shall be reissued by the successor public utility under the proper P.S.C. number in its series within one year after the date of adoption.

(d) Every adopted contract shall be renumbered by the successor public utility in its series within 30 days after the date of adoption and the Commission shall be notified.

(e) When a waterworks corporation is being discontinued and the territory is to be transferred to a water district, a supplement (which may be effective as of the date filed with the Commission) shall be filed by the public utility bearing a notice substantially as follows:

"The rules, rates, and regulations contained in this schedule are hereby canceled. The works and system of the (name of company) were transferred on (date) to Water District No. _____ of the Town of _____ in accordance with permission granted by the Public Service Commission in Case _____."

§ 720-5.4 Supplements

Except as authorized by the Commission, or as provided by section 720-5.3 of this Part, supplements shall be issued for the following purposes only:

(a) When a schedule, amendment, supplement, or statement is to be cancelled, a consecutively numbered supplement shall be issued which reads:

"(Here list schedule, amendment, supplement, or statement to be cancelled) is (are) hereby cancelled);

(b) When a schedule, amendment, supplement, statement, or addendum is suspended by order of the Commission, a consecutively numbered supplement shall be issued bearing notice in the following form:

"By order of the Public Service Commission, State of New York, made _____, in Case _____ (Here list suspended schedule, amendment, supplement or statement) has (have) been suspended to and including _____. Pending restoration, reissue, or cancellation, the rates, rules and regulations in (Here list schedule, amendment, supplement, or statement which it was proposed to supersede) will apply."

(1) Each affected leaf shall be marked as indicated in section 720-5.5 of this Part; and

(2) Suspension supplements shall not bear an effective date. Suspension supplements submitted in hard copy format shall show the date on which the supplement is issued, otherwise ETS will add a received date to electronically filed supplements.

(c) When the effective date of a schedule, amendment, supplement, or statement is to be postponed, a consecutively numbered supplement (with each effective leaf being noted as indicated in section 720-5.5 of this Part when the supplement becomes effective) shall be issued in the following form:

"The effective date of (Here list schedule, amendment, supplement or statement to be postponed) is (are) hereby postponed to _____."

§ 720-5.5 Notations on Schedules

The following notations are prescribed for marking schedules affected by orders of the Commission. Where an entire schedule is affected, each leaf shall be marked.

(a) Where one or more leaves are suspended by order of the Commission, each suspended leaf shall be marked with the notation shown below:

SUSPENDED by order in Case (case no.).

See Suppl. No. (suppl.);

(b) Where a suspension is vacated, the following notation shall be added:

Suspension in Case (case no).

VACATED, See Suppl. No. (suppl.);

(c) Where suspended matter is ordered cancelled, the following notation shall be added:

SUSPENDED matter in case (case no.)

Ordered cancelled by order issued (date);

(d) Where the effective date of one or more leaves is postponed, the following notation shall be placed on the leaf or leaves.

Effective date POSTPONED to (date)

See Supplement No. (suppl.);

(e) Where the rates are allowed to become effective under Section 113 of the Public Service Law, the following notation shall be placed on the leaf or leaves containing the rates:

EFFECTIVE _____

under Section 113 of the PSL in case (case no.);

(f) Where rates have been continued unchanged after the completion of a Section 113 proceeding, the following notation shall be added to the leaves affected:

Case Closed _____ (date)

and

(g) For notation in compliance with special permission authority, see Section 720-2.4.

§ 720-5.6 Appendix: Form for Adoption Notices

(Name of Public Utility)

Adoption Notice No. _____

(Name of Public Utility) hereby adopts, ratifies, and makes its own, in every respect, as if the same had been originally filed by it, the following instruments originally filed with the Public Service Commission, State of New York, or heretofore adopted by (Name of Predecessor):

(Here list all schedules, contracts, concurrences, powers of attorney, agreements, or other instruments on file with the Commission which are adopted.)

Date of Issue _____ Date Effective _____
(Month, day, year) (Month, day, year)

Issued by _____
(Name of officer, title, address)

§ 720-6.1 Electric Fuel Adjustment Clauses Generally

(a) Where provisions are made in electric schedules for automatic adjustment of rates because of changes in cost of fuel, public utilities may elect to file statements to their schedules in lieu of amendments. Such statements shall not be a part of the schedule and will not bear a leaf designation. Statements to each schedule will be numbered consecutively.

(b) A copy of the effective statement shall be kept available with each schedule to which it applies. Statements will follow all leaves and supplements which are a part of the schedule.

(c) Every statement shall be filed not less than three business days prior to the date on which it is proposed to be effective.

§ 720-6.2 Electric Fuel Statements

(a) Where corporations and municipalities elect to file fuel adjustment statements in accordance with section 720-6.1 of this Part, the statements must contain:

- (1) identification of the schedules and service classifications to which they apply;
- (2) the base cost of fuel (separately, when more than one base is used in the schedule);
- (3) the present average cost to the utility;
- (4) the date at which, and the period for which, the average was determined;
- (5) the amount per unit of consumption affected; and
- (6) the date when the increase or decrease in rates shall become effective and the period it will remain in effect.

(b) The following definitions apply in connection with this section:

(1) The term cost of fuel is defined as the cost of fossil, hydro, and nuclear fuel used by the company in generation for its customers, plus the cost of economy energy purchased for its customers, plus the fuel costs of other energy purchased for its customers, estimated if not known, plus any necessary adjustment correcting estimated fuel costs of purchased energy of previous months, except that fuel costs associated with nuclear generating plants whose capital costs have not been reflected in the rate base for rate determination purposes may be priced at the base cost of fuel. A period of four months shall be allowed for determining the estimated fuel costs after which the estimate shall be adjusted to the utility's average fuel cost at the time of purchase.

(2) The term base cost of fuel is defined as the cost of fuel per unit which is established as the basis in computing the fuel surcharge. It shall be clearly stated, together with the method of arriving at it, in connection with the filing of the fuel surcharge provision.

(3) The average cost of fuel is defined as the cost of fuel defined in paragraph (1) of this subdivision divided by the total generated and purchased energy minus the energy sold to other utilities except utilities covered by the fuel cost adjustment clause, minus transmitting and pumping losses associated with energy supplied for pumped storage generating units. The determination of the utility's own fuel cost shall be derived using the averaging method, i.e., the total cost of fuel on hand at the beginning of the month, plus the cost of fuel received during the month divided by the sum of the total quantity of fuel on hand at the beginning of the month and the total amount of fuel received during the month.

(4) The term economy energy is defined as that energy purchased in compliance with the economy energy definition of the New York Power Pool, plus that energy purchased at a total charge equal to or less than the utility's avoided fuel cost.

(5) The term fees is defined as amounts paid to brokers, agents, individuals, or clearinghouses which are directly associated with identifiable gas supply purchases. To be considered a part of the cost of fossil fuel purchases, and includable in the fuel adjustment clause, such fees are subject to the following conditions:

(i) such fees must provide a net reduction in the delivered cost to the utility on an avoided cost basis, i.e., the combination of gas costs, delivery costs and fee payments must be less than the cost of the supply that would have been taken but for this purchase;

(ii) the fee payment may not be to an affiliate of the utility, nor may it be for gas ultimately purchased from an affiliate;

(iii) costs attributable to utility personnel may not be included in such fee payment;

(iv) the fee payment may not cause the price of the subject gas supply to exceed its maximum lawful price pursuant to the Natural Gas Policy Act of 1978;

(v) the fee payment must be related to a specific gas volume and may not be of a general nature, such as an expense for performing a survey or a start-up expense for a broker, agent, individual, or clearinghouse;

(vi) lump sum fees must be recovered over the estimated quantities with which such fees are associated;

(vii) where applicable, the utility must fully detail and justify all such costs in annual gas cost recovery reconciliations and in rate case presentations as part of the review of gas purchasing practices; and

(viii) in conjunction with the first claim for recovery of each fee through the electric adjustment clause, workpapers supporting such filings must clearly set forth the new fee and include a statement that the gas supply was not available to the utility without this payment.

§ 720-6.3 Proceedings for Review of Electric Fuel Adjustment Clause Operations

(a) In each proceeding before the Commission concerning an application for a major change (as defined by Public Service Law, Section 66(12)) in the rates, charges or service of any electric public utility, any such public utility proposing to commence or continue the provision of fuel adjustment clauses within its tariff shall offer evidence that:

(1) its fuel costs are subject to fluctuations to the extent that such costs are not susceptible to reasonable estimation in formal rate proceedings; and

(2) its volatile fuel costs constitute a significant proportion of the cost of service provided by the public utility.

(b) Each electric public utility proposing to continue using a fuel adjustment clause shall offer evidence in each proceeding described in subdivision (a) of this section showing that:

(1) all information required by section 720-6.2 has been filed in a timely manner; and

(2) it uses all practicable means to ensure the maximum economies in those operations and purchases that affect fuel costs subject to the clause, to the extent such actions are otherwise consistent with its obligations to provide reliable service. The evidence described in this section shall include the sworn testimony of an employee or officer of the public utility relevant to the proof of compliance with the standards set forth in this section. When an electric public utility proposes to continue using a fuel adjustment clause, fuel statements or other filings required by section 720-6.2 of this Part shall be considered relevant and admitted into evidence. The public utility shall provide a sponsoring witness familiar with the preparation and contents of any such filings made after the last evidentiary hearings held pursuant to this section.

(c) Public evidentiary hearings concerning compliance with the fuel adjustment clause standards set forth in subdivisions (a) and (b) of this section shall be held not less often than every four years, with respect to any electric public utility required to file statements pursuant to section 720-6.2 of this Part. Consideration of such compliance within a rate case, as provided in subdivision (b) of this section, shall be deemed to be an evidentiary hearing for the purpose of this subdivision. In the event that four years elapse from a public evidentiary hearing of the matters set forth in the preceding paragraph, hearings concerning compliance with the standards set forth in subdivisions (a) and (b) of this section shall be convened.

(d) In the event that two years elapse from the date of the last public evidentiary hearings as to the matters set forth in the preceding subdivisions of this section with respect to any electric public utility required to file statements pursuant to

section 720-6.2, the staff of the Department of Public Service shall review the compliance of the electric public utility with the standards of subdivisions (a) and (b) of this section and report its findings.

(e) The Commission may hold hearings upon its own motion, or on the motion of any interested person upon good cause shown, as to the compliance of a public utility with the standards set forth in subdivisions (a) and (b) of this section.

§ 720-6.4 Correctness and Reasonableness of Fuel Adjustment Charges

The Commission may hold hearings upon its own motion, or upon the motion of any interested party upon good cause shown, as to the correctness and reasonableness of any increased rate or charge for fuel costs subject to a fuel adjustment clause. At any hearing so commenced, the burden of proof as to the propriety of any such rate or charge shall be with the utility. In any case in which it is determined that fuel adjustment charges were excessive because of lack of reasonable care or are otherwise unreasonable or incorrect, the Commission may order remedial action, including an adjustment of any previous collection under the fuel adjustment clause.

§ 720-6.5 Gas Cost Adjustment Clauses

(a) Definitions. The following definitions shall apply in connection with this section:

(1) Gas is natural gas distributed by a public utility to its customers without change or after mixing with other gas, and pipeline quality gas manufactured from liquefied propane.

(2) Base cost of gas is the cost per Ccf, Mcf or therm which is included in stated tariff rates and established as the basis for computing the gas cost adjustment. Upon approval by the commission, the base cost of gas can be eliminated from the base tariff rates.

(3) Fees are amounts paid to brokers, agents, individuals or clearinghouses, which are directly associated with identifiable gas supply purchases. To be included in the average cost of gas computation, such fees are subject to the following conditions:

(i) such fee must provide a net reduction in the delivered cost to the public utility on an avoided cost basis, i.e., the combination of gas costs, delivery costs and fee payments must be less than the cost of the supply that would have been taken but for said purchase;

(ii) the payment may not be to an affiliate of the public utility, nor may it be for gas ultimately purchased from an affiliate;

(iii) no costs attributable to public utility personnel, (e.g., wages or expenses) may be included in such fee payment;

(iv) the fee payment must be related to a specific gas volume and may not be of a general nature such as an expense for performing a survey or a start-up expense for a broker, agent, individual or clearinghouse;

(v) lump sum fees must be recovered over the estimated quantities of gas with which such fees are associated;

(vi) the public utility must fully detail and justify all such costs in annual gas cost recovery reconciliations and in rate case presentations as part of the review of gas purchasing practices; and

(vii) in conjunction with the first claim for recovery of each fee through a gas cost adjustment, work papers supporting such filings must clearly set forth the new fee and include a statement that the gas supply was not available to the public utility without said payment.

(4) Risk management costs are costs associated with transactions that are intended to reduce price volatility or reduce overall costs to customers. These costs include transaction costs, and gains and losses associated with transactions made in commodities exchanges and with other risk management entities.

(b) Statements. Where provisions are made in gas schedules for automatic adjustment of rates because of changes in the cost of gas, gas corporations or municipalities may elect to file statements to their schedules in lieu of amendments. Such statements shall not be part of the schedule and will not bear a leaf designation. Each statement shall be numbered consecutively. A copy of the effective statement shall be kept available with each schedule to which it applies and may be attached to or bound with the schedule. If bound with the schedule, statements shall follow all leaves and supplements which are part of the schedule. Every such statement shall be filed not less than three days prior to the date on which it is

proposed to be effective, except that a new statement may be filed on one day's notice to become effective not more than five days after the effective date of the initial statement if the replacement of cost estimates in the initial statement with actual figures results in a change in the average cost of gas of more than 5 percent. Each statement shall contain:

- (1) an identification of the schedules and service classifications to which they apply;
- (2) the date when the increase or decrease in rates shall become effective and the period it will remain in effect;
- (3) the present average cost to the public utility of gas purchased to serve customers subject to the gas adjustment;
- (4) the date at which, and the period for which, the average was determined;
- (5)(i) the base cost of gas (stated separately, when more than one base is used in the schedule);
(ii) if gas costs are unbilled, the base cost of gas need not be shown;
- (6) the amount per unit of consumption affected;
- (7) a summary of refunds or surcharges to be applied to the adjustment; and
- (8) the net amount per unit of consumption affected;
- (9) the weather normalization adjustment factor for each billing cycle for the prior month.

(c) Application of charge. The gas adjustment charge shall be applied to bills by prorating the gas adjustments in effect during the period of service based on the number of days each gas adjustment is in effect during each billing period, and calculating the average cost of gas using transporter, storage provider, and supplier rates estimated to be in effect on the effective date of the gas adjustment (pursuant to subdivision (d) (1) (ii) of this section).

(d) Average cost of gas. The average cost of gas shall be computed as follows:

(1) by applying the fixed rates and charges of the transporters, storage providers, and suppliers to the billing determinants associated with pipeline capacity, storage capacity, and supplier reservation charges, and dividing by, either the weather normalized quantities of gas taken for delivery to the utility's own sales customers during the 12 calendar months immediately preceding the computation date, or the forecast quantities of gas to be taken for delivery to the utility's own sales customers during the 12 calendar months ending the following August 31. Fixed costs assigned to non-sales customers should be excluded;

(2) by applying the variable rates and charges of the transporters, storage providers, and suppliers to the billing determinants associated with transportation, storage, and gas supply, for the forecasted weather normalized quantities of gas to be taken for delivery to the utility's own customers during the month in which the gas adjustment will be in effect;

(3) by applying the average unit cost of liquefied propane in storage at the date of computation to the quantities of said product used to serve a public utility's own customers during the prior month;

(4) by applying the average unit cost of gas in storage at the date of computation to the quantities of gas estimated to be withdrawn from storage for a utility's own customers during the month in which the gas adjustment will be in effect;

(5) the total average cost of gas equals the amount computed in paragraphs (1) of this subdivision plus the amounts computed in paragraphs (2) - (4) of this subdivision divided by the forecasted weather normalized quantities of gas to be taken for delivery to the utility's own customers during the month in which the gas adjustment will be in effect. The total average cost of gas shall be adjusted to reflect credits from released capacity, storage services, and sales and transportation of gas provided to interruptible and off-system customers.

(6) risk management costs may be included in paragraphs (1) - (4) of this subdivision; and

(7) supporting data and workpapers underlying gas cost adjustments and the historical cost of purchased gas, in the format set forth in Appendix 7-H of this section so as to clearly identify sources of gas and related costs as delivered to the utility, shall be filed with the commission and accompany the statement. Supporting documents may be computer generated.

(e) Factor of adjustment. The factor of adjustment shall be determined in a rate proceeding. At the conclusion of each succeeding rate proceeding, a new factor of adjustment will become effective and continue in effect until a new factor is established in the next rate proceeding.

(f) Refunds. Each utility shall file with the commission, and include in its tariff schedule, a plan to flow through to consumers credits received from suppliers due to rate settlements or retroactive rate reductions. Refunds shall include interest, calculated at a rate prescribed by the commission, on the unrefunded balances. Where exceptional circumstances warrant, the utility may petition the commission for waiver of its filed refund plan.

(g) Annual reconciliation. Actual gas cost recoveries shall be reconciled with actual gas expenses each year, and a surcharge or refund to recover gas adjustment under-recoveries or refund gas adjustment over-collections shall be computed as follows:

(1) Taking the cost of gas, adjusted for supplier refunds, and liquefied propane consumed, as recorded on its books during the determination period, adjusting that cost to reflect a level of purchased gas commensurate with actual sales and the fixed factor of adjustment as determined in the preceding rate proceeding, and subtracting therefrom an amount equal to:

(i) the base cost of gas, as defined in subdivision (a) (2) of this section, multiplied by the quantities of gas purchased;

(ii) gas adjustment revenues recorded during the determination period, adjusted to eliminate associated revenue tax recoveries;

(iii) costs recorded during the determination period assignable to gas sold to customers not subject to gas cost adjustments; and

(iv) (a) the previous year's over-collection, including interest, to the extent not refunded; or

(b) adding the previous year's under-collection, including interest, to the extent not recovered.

(2) The amount derived in paragraph (1) of this subdivision shall be divided by the quantities of gas to be sold by the utility to its customers during the surcharge/refund period.

(3) Appropriate adjustment shall be made to eliminate the effect of net credits which have been included in the gas adjustment due to interruptible or other flexibly priced sales.

(4) Surcharge or refund amounts shall bear interest, at a rate prescribed by the commission, on unamortized balances.

(5) The determination period to be used in the computation of the surcharge or refund shall be the 12 months ended August 31st of each year. The computation shall be filed with the commission on or before October 15th, the resulting surcharge or refund shall be effective with the first January billing cycle date.

(6) Interim refunds or surcharges during the 12 month period ended August 31st will be permitted for the purpose of preventing large over-collection or under-collection balances from accruing at August 31st. The methodology used to determine the amount of over-collection or under-collection and the method of refund or surcharge shall be determined by the utility and filed with the commission.

(h) Gas adjustments based on load characteristics. Utilities are permitted to calculate gas adjustments for various service classifications, sub-classes, customer groups, or customers based on load characteristics. Implementation of such gas adjustments must be approved by the commission.

(i) Alternative gas cost pricing. Utilities are permitted to offer customers alternative pricing mechanisms other than those specified above. Risk management costs and other costs associated with alternative pricing mechanisms shall be excluded from the gas adjustment. Implementation of such alternative pricing mechanisms must be approved by the Commission.

§ 720-6.6 Steam Fuel Adjustment Clauses Generally

(a) Where provisions are made in steam schedules for automatic adjustment of rates because of changes in cost of fuel, public utilities may elect to file statements to their schedules in lieu of amendments. Such statements shall not be a part of the schedule and shall not bear a leaf designation. Statements to each schedule shall be numbered consecutively, for example: "Statement No. 1 to P.S.C. No. 1", and "Statement No. 2 to P.S.C. No. 1".

(b) A copy of the effective statement shall be kept available with each schedule to which it applies and may be attached to the schedule. Statements shall follow all leaves and supplements which are part of the schedule

(c) Every such statement shall be filed not less than three days prior to the date on which it is proposed to be effective.

§ 720-6.7 Steam Fuel Statements

- (a) Where public utilities elect to file fuel statements in accordance with section 720-6.6, such statements must contain:
- (1) identification of the schedules and service classifications to which they apply;
 - (2) the base cost of fuel (separately, when more than one base is used in the schedule);
 - (3) the present average cost of fuel to the public utility;
 - (4) the point of delivery;
 - (5) the date at which and the period for which the average was determined;
 - (6) the amount per unit of consumption affected; and
 - (7) the date when the increase or decrease in rates shall become effective and the period during which it will remain in effect.

(b) The following definitions apply in connection with this section:

(1) The term cost of fuel is defined as the price, including all transportation charges to the point at which the public utility accepts delivery. Where more than one type of fuel is used, the cost of fuel shall be determined by converting all fuels to a common standard.

(2) The term base cost of fuel is defined as the cost of fuel per unit which is established as the basis in computing the fuel surcharge. It shall be clearly stated, together with the method of arriving at it, in connection with the filing of the fuel surcharge provision.

(3) The term average cost of fuel is defined as the total cost of fuel on hand at the beginning of the period, plus the cost of fuel received during the period, divided by the sum of the total quantity of fuel on hand at the beginning of the period and the total amount of fuel received during the period.

§ 720-6.8 City and Village Utility Revenue Tax Surcharges

(a) Where provisions are made in schedules for automatic adjustment of public utility revenue tax surcharges in response to an enactment whereby a city or village levies a new tax on public utility gross revenues, repeals such a tax, or changes the rate of such a tax, public utilities subject to the tax may elect to file statements relative to their schedules in lieu of amendments. Such statements shall not be a part of the schedule and shall not bear a leaf designation. Statements to each schedule shall be numbered consecutively.

(b) A copy of the effective statement shall be kept available with each schedule to which it applies. Statements shall follow all leaves and supplements that are a part of the schedule.

(c) Every such statement shall be filed not less than 15 business days before the date on which it is proposed to be effective, and no sooner than the date of the tax enactment to which the statement responds; shall become effective no sooner than the date when the tax enactment is filed with the Secretary of State; shall be applicable to bills subject to the tax enactment that are rendered on or after the effective date of the statement; and shall be canceled not more than five business days after the tax enactment either ceases to be effective or is modified so as to reduce the tax rate.

§ 720-7.1 Powers of Attorney

(a) A telephone corporation may authorize another telephone corporation to file its toll schedules and revisions thereto, or concurrences by power of attorney filed with the Commission set forth in Section 720-7.3. The original copy shall be filed with the Commission and the duplicate furnished to the telephone corporation to which power of attorney is given. Such authority may not contain authority to delegate to another the power thereby conferred.

(b) Powers of attorney shall be consecutively numbered.

(c) A telephone corporation granting authority to another telephone corporation to publish and file certain of its rates, charges, rules, or regulations shall not, in its own publications, publish rates, charges, rules, or regulations that conflict with or duplicate those which are published by such authorized other telephone corporation.

(d) Authority granted under this section may be revoked upon 60 days' notice to the Commission and to the telephone corporation to which power of attorney is given, as prescribed by Section 720-7.4.

§ 720-7.2 Concurrences

(a) A concurrence may be given by a telephone corporation to embrace joint schedules issued by another telephone corporation to which the concurring corporation is a party. The original copy of the concurrence, as set forth in 720-7.5, shall be filed with the Commission and a duplicate furnished to the corporation to which concurrence is given. Concurrences shall be filed immediately by the issuing corporation.

(b) Concurrences shall be consecutively numbered by the corporation issuing the concurrence.

(c) Where a concurrence confers authority to name rates of the telephone corporation giving concurrence, schedules shall be issued by the telephone corporation to which concurrence is given under its own PSC numbers, and the telephone corporation giving such concurrence shall be shown as a participating corporation. The filing of such schedules will constitute filing for all lawfully concurring telephone corporations, and they may be used by concurring telephone corporations for public inspection as required by Section 720-1.3. The telephone corporation to which concurrence is given may apply for permission to make a joint schedule effective on short notice as provided in Section 720-2.4. The application shall be made on the prescribed form and must include a statement that it is made on behalf of all parties to the schedule and that the formal concurrence is on file with the Commission.

(d) A concurrence may be revoked by filing notice of such revocation, as set forth in Section 720-7.4, with the Commission and serving same upon the telephone corporation to which such concurrence was given. This notice must specify the date upon which revocation is to be made effective and must give not less than 60 days' notice to the Commission and to the telephone corporation to which concurrence was given. Corresponding correction of schedules shall be made by amending or reissuing such schedules on not less than 30 days' notice to be effective upon the effective date of the revocation.

(e) A concurrence does not confer authority to cancel schedules of concurring corporations. Schedules issued under concurrences shall not bear notation of cancellation of schedules of concurring telephone corporations. Such cancellations must be made by the telephone corporation which issued the schedule that is to be cancelled.

§ 720-7.3 Appendix: Form for Power of Attorney

POWER OF ATTORNEY

Tp. 1 No. _____
Cancels Tp. 1 No. _____

(Name of Corporation)

(Date)_____

Know all by these presents:

that the (name of public utility) has made, constituted, and appointed and by these presents does make, constitute, and appoint (name of public utility) its true and lawful attorney and agent for the said public utility, and in its name, place and stead to file (or to give and receive concurrences in) schedules and supplements thereto, as required of public utilities by Public Service Law and by regulations established by the Public Service Commission, State of New York, thereunder, for the period of time, the service, and the territory now herein named:

and the said (name of public utility) does hereby give and grant unto its said attorney and agent full power and authority to do and perform all and every act and thing above specified as fully to all intents and purposes hereby ratifying and confirming all that its said agent and attorney may lawfully do by virtue hereof and assuming full responsibility for the acts and neglects of its said attorney and agent hereunder.

In witness whereof the said public utility has caused these presents to be signed in its name by its _____ (title of officer or owner), and to be duly verified or attested under its corporate seal by its secretary, at _____, in the State of _____ in _____.

(Name of Corporation)
By _____
(Signature of Officer)

(Title of Officer)

Attest:
_____, Secretary.
(Corporate Seal)

Duplicate mailed _____ to _____ at _____
(Date)

§ 720-7.4 Appendix: Form for Revocation of Power of Attorney or Concurrence

REVOCATION NOTICE

(Name of Corporation)

(Date)

Effective _____ (Power of Attorney) (Concurrence) Tp. _____ No. _____ issued by (name of public utility) in favor of (here show name of public utility in whose favor issued) is hereby cancelled and revoked.

(Name of Corporation)
By _____
(Signature of Officer)

(Title of Officer)

(If a corporation)
Attest:
(Corporate Seal)

Duplicate mailed _____ to _____ at _____
(Date)

§ 720-7.5 Appendix: Form for Concurrence

Tp. 2 No. _____
Cancels Tp. 2 No. _____

(Name of Public Utility)

Public Service Commission
3 Empire State Plaza
Albany, New York 12223-1350

(Date) _____

This is to certify that the (name of telephone corporation)[1] assents to and concurs in the publication and filing of (rate schedule described below)[2] (any joint schedule) and revisions thereto which the (name of telephone corporation) may make and file, in which it is shown as a participating corporation, and hereby makes itself a party thereto and bound thereby insofar as such schedule contains joint rates, charges, rules, or regulations applying to communication by telephone (in any way involving use of its toll lines)[3], until this authority is revoked by formal and official notice of revocation filed with the Public Service Commission, State of New York, and with the telephone corporation to which this concurrence is given.

Title and No.: _____

Date of Issue: _____

Date Effective: _____

(Name of Corporation)

By _____
(Signature of Officer)

(Title of Officer)

[1] If concurrence is given by one telephone corporation for itself, and also under power of attorney for other telephone corporations, it will be necessary to specify the names of all corporations for which concurrence is given.

[2] Strike out phrase not applicable.

[3] If the telephone corporation issuing concurrence does not desire to give such broad authority as "in any way involving the use of its toll lines", the concurrence may be modified to confer exactly the authority to be granted.

§ 720-8.1 Newspaper Publication

(a) Whenever a change is proposed to any schedule, excluding Addenda and Statements, filed with the Commission, a notice to the public of such proposed change shall be published once in each week for four successive weeks in a newspaper having general circulation in each county containing territory affected by the proposed change. This notice shall plainly state the changes proposed to be made in the schedule then in force and the time when the change will go into effect.

(1) Such publication must be made in a form and manner designed to be seen and understood by the customers affected by the proposed change. It is not required that such publication be made in the legal notice column of such newspapers nor that the complete text of the proposed revisions be shown.

(2) Publication must be completed prior to the effective date of the proposed revisions unless the Commission shall otherwise order. The public utility shall file with the Commission, not more than 15 days after the effective date of the change, proof that such publication has been made.

(3) A request that publication be waived is not required to be in any prescribed form, but it must clearly demonstrate the merit of the request.

§ 720-9.1 Bill Inserts

(a) Each public utility, other than a waterworks corporation, billing other than by postcard and serving more than 25,000 customers, shall furnish to its customers a narrative description of the essential elements affecting them of each proposed major rate change, by bill inserts to be included with the next utility bills mailed commencing not later than seven days after the rates are filed.

(b) The narrative description shall include the following:

The Commission may approve, modify or reject any or all of the proposed tariff changes. Among other things, the Commission's determination may require revisions of the proposed amount of the increases applicable to particular classifications of service, or changes in rates applicable to those classifications for which no increase is proposed by the company.

(c) Applications for waiver of the requirements for such mailing may be granted upon a sufficient showing.