



# Energy and Telecommunications Interim Committee

PO BOX 201706  
Helena, MT 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

68th Montana Legislature

## SENATE MEMBERS

BRAD MOLNAR  
CHRISTOPHER POPE - Vice Chair  
BARRY USHER  
DANIEL ZOLNIKOV - Chair

## HOUSE MEMBERS

LAURIE BISHOP  
STEVE GALLOWAY  
GARY PARRY  
KATIE ZOLNIKOV

## COMMITTEE STAFF

GRIFFIN BURNS, Lead Staff  
JAMESON WALKER, Staff Attorney  
JACELYN STERLING, Secretary

July 10, 2024

TO: Energy and Telecommunications Interim Committee  
FROM: Jameson Walker, Staff Attorney  
RE: Administrative Rule Review Memo

The Energy and Telecommunications Interim Committee is required to review administrative rules promulgated by the Public Service Commission for compliance with the Montana Administrative Procedure Act (MAPA). The rulemaking and rule review processes and the Committee's and an individual legislator's roles in these processes are outlined below.

## PROPOSAL NOTICES

### Department of Public Service Regulation and Public Service Commission

**MAR Notice Number:** 38-3-263

**Subject:** Amendment of a rule pertaining to applications.

**Summary:** The PSC proposes to amend 38.3.401:

- 38.3.401 COMPLETION OF APPLICATIONS (1) Applications for operating authority shall be in conformity with the requirements of the Montana Motor Carrier Act.
- (2) Application forms for operating authority must be submitted on a form supplied by this commission.
- (3) The application form must be completed, signed by the proper party, and verified in accordance with 1-6-105, MCA notarized.

The statute referenced in the rule, 1-6-105, MCA, provides:

1-6-105. Unsworn declarations — penalty of perjury. (1) Whenever, under any law of this state or under any rule, order, or requirement made under the law of this state, any matter is required or permitted to be supported, evidenced, established, or proved by a person's sworn written declaration, verification, certificate, oath, or affidavit, the matter may with like force and effect be supported, evidenced, established, or proved by an unsworn written declaration, certificate, verification, or statement that is subscribed by the person as true under penalty of perjury in substantially the following form:

(a) If executed within the state:

"I declare under penalty of perjury that the foregoing is true and correct.

.....  
Date and place Signature"

(b) If executed in any place outside the state:

"I declare under penalty of perjury and under the laws of the state of Montana that the foregoing is true and correct.

.....  
Date and place Signature"

(2) A deliberate falsification in any declaration pursuant to this section constitutes the offense of perjury as provided in 45-7-201 and is punishable as the offense of false swearing as provided in 45-7-202. A declaration under penalty of perjury executed in accordance with any provision of this code is not limited to the official proceedings referenced in 45-7-201.

(3) This section does not apply to writings requiring an acknowledgment, deposition, oath of office, or oath required to be taken before a special official other than a notary public.

The PSC provided the following statement of reasonable necessity:

REASON: The department proposes to amend the above-listed rule because on several occasions applicants for motor carrier authority have needed to amend their application after it has been filed with the Public Service Commission. Substituting an unsworn written declaration requirement for the notary requirement will make the application process more efficient for both applicants and regulatory compliance staff, while still ensuring that applications will be verified as true and correct. The two implementation citations that the department proposes to strike were repealed by 2021 House Bill 365 (deregulating Class B carriers) and 2023 Senate Bill 33 (deregulating Class C carriers). The implementation statute that the department proposes to add requires Class E motor carrier authority applications to be verified.

Notes/Hearing: The PSC does not anticipate the need to conduct a public hearing. The PSC will be accepting written comments through July 19, 2024.