
Rules of
Department of Public Safety
Division 45—Missouri Gaming Commission
Chapter 13—Hearings

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**Title 11—DEPARTMENT OF
PUBLIC SAFETY
Division 45—Missouri Gaming
Commission
Chapter 13—Hearings**

11 CSR 45-13.010 All Types of Hearings

PURPOSE: This rule describes types of hearings.

(1) The rules contained in this chapter shall govern all hearings of the commission.

AUTHORITY: sections 313.004, 313.052, 313.560, 313.800 and 313.805, RSMo 1994.* Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Emergency amendment filed Dec. 12, 1997, effective Dec. 22, 1997, expired June 19, 1998. Amended: Filed Dec. 12, 1997, effective July 30, 1998.

*Original authority: 313.004, RSMo 1993, amended 1994; 313.052, RSMo 1994; 313.560, RSMo 1986, amended 1987; and 313.800 and 313.805, RSMo 1991, amended 1993, 1994.

11 CSR 45-13.020 Hearing Officer

PURPOSE: This rule describes appointment of hearing officers.

(1) The commission shall retain a hearing officer, as a full-time employee or on a contract basis, to conduct the hearings required by the statutes and regulations over which the commission has jurisdiction.

(2) The hearing officer shall be a member in good standing of the Missouri Bar.

(3) Following each hearing, the hearing officer shall recommend proposed findings of fact, conclusions of law and a final order to the commission.

(4) The commission shall review the recommendation of the hearing officer and issue findings of fact, conclusions of law and enter a final order.

AUTHORITY: sections 313.004, 313.052, 313.560, 313.800 and 313.805, RSMo 1994.* Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Emergency amendment

filed Dec. 12, 1997, effective Dec. 22, 1997, expired June 19, 1998. Amended: Filed Dec. 12, 1997, effective July 30, 1998.

*Original authority: 313.004, RSMo 1993 and 313.800 and 313.805, RSMo 1991, amended 1993.

11 CSR 45-13.030 Requests for Hearings

PURPOSE: This rule establishes the procedure for requesting a hearing.

(1) All requests for hearings must—

- (A) Be in writing;
- (B) State the name, current address and current telephone number of the petitioner;
- (C) State the number assigned to the matter by the commission;
- (D) State the particular section of the statutes or commission rule involved; and
- (E) State in detail the reasons and facts upon which the petitioner will rely to prove its case, such as to show that the petitioner's application for a license should have been granted, the license should have been renewed, the transfer of ownership should have been approved, or the petitioner should not have been placed on the exclusion list, including specific responses to any facts enumerated in the commission's notice of denial, notice of unsuitability, notice of nonrenewal, notice of exclusion or other document evidencing legal action.

(2) A request for hearing must be submitted within thirty (30) days after service by the commission of the decision or issue about which the petitioner requests a hearing.

(A) The petitioner may submit a request for hearing by—

- 1. Personal delivery;
- 2. Certified mail, postage prepaid; or
- 3. Overnight express mail, postage prepaid.

(B) All requests for hearings must be submitted in duplicate at the commission's office in Jefferson City.

(C) No documents or papers shall be considered filed until actually received by the commission.

(D) The hearing officer may deny a request for hearing if the statement of reasons and facts submitted by the petitioner do not establish a *prima facie* case.

(4) The petitioner shall be served with written notice of the time and place of hearing by—

- (A) Personal delivery;
- (B) Certified mail, postage prepaid; or
- (C) Overnight express mail, postage prepaid.

AUTHORITY: sections 313.004, 313.052, 313.560, 313.800 and 313.805, RSMo 1994.* Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Emergency amendment filed Dec. 12, 1997, effective Dec. 22, 1997, expired June 19, 1998. Amended: Filed Dec. 12, 1997, effective July 30, 1998.

*Original authority: 313.004, RSMo 1993, amended 1994; 313.052, RSMo 1994; 313.560, RSMo 1986, amended 1987; and 313.800 and 313.805, RSMo 1991, amended 1993, 1994.

11 CSR 45-13.040 Appearances

PURPOSE: This rule establishes the procedures for attorneys filing appearances.

(1) A party may be represented by an attorney who is licensed in Missouri. All attorneys who appear in a representative capacity on behalf of a party must file written notice of appearance setting forth—

- (A) The name, address, telephone number and Missouri Bar number of the attorney(s); and
- (B) The name and address of the party represented.

(2) Upon motion, the hearing officer may permit a member in good standing of the bar of the highest court of any state or of any United States district court to argue or conduct a particular hearing in whole or in part.

(3) An attorney may only withdraw his/her appearance upon written notice to the hearing officer stating the reasons therefore and after permission from the hearing officer.

(4) Any individual may appear on his/her own behalf.

AUTHORITY: sections 313.004, 313.052, 313.560, 313.800 and 313.805, RSMo 1994.* Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Emergency amendment filed Dec. 12, 1997, effective Dec. 22, 1997, expired June 19, 1998. Amended: Filed Dec. 12, 1997, effective July 30, 1998.

*Original authority: 313.004, RSMo 1993, amended 1994; 313.052, RSMo 1994; 313.560, RSMo 1986, amended 1987; and 313.800 and 313.805, RSMo 1991, amended 1993, 1994.

11 CSR 45-13.050 Disciplinary Action

PURPOSE: This rule establishes the procedures for disciplinary action.

(1) When notified of facts sufficient to support disciplinary action against a licensee under the applicable statutes or rules, the commission may propose disciplinary action against a licensee. If the commission proposes disciplinary action, it shall notify the licensee of the disciplinary action proposed. Notification shall be by certified mail. Included with the notification shall be a proposed order for disciplinary action.

(2) The proposed order shall include a statement of facts supporting the disciplinary action and the rule or statutory section with violation of which the licensee is being charged and penalty proposed. The proposed order shall be accompanied by a certificate of service demonstrating the date of service.

(3) Within thirty (30) days from the date of mailing of the proposed order, the licensee shall file his/her/its request for hearing by serving it on the director. If a request for hearing is not filed, the proposed order shall become a final order of the commission.

(4) Whenever the commission finds an applicant unsuitable for licensing, the commission shall send a written letter to the applicant outlining the reasons for the finding. This letter shall be sent certified mail, return receipt requested or by personal delivery. Within thirty (30) days from the date of the mailing, the licensee shall file his/her/its request for hearing by serving it on the director. If a request for hearing is not filed, the denial shall become a final order of the commission.

(5) The commission may authorize the director to investigate and make the initial finding of unsuitability or to issue a proposed order for disciplinary action with regard to any applicant for or holder of a license of the type that may be issued by the director and with regard to any bingo licensee. If the director takes such action, s/he shall notify the commission and provide to the commission a copy of the letter regarding unsuitability or the proposed order for disciplinary action.

(6) In all disciplinary actions and licensing hearings, the applicant or licensee shall be the petitioner.

AUTHORITY: sections 313.004, 313.052, 313.560, 313.800 and 313.805, RSMo 1994. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17,*

1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Amended: Filed Dec. 7, 1995, effective June 30, 1996. Amended: Filed Aug. 30, 1996, effective April 30, 1997. Emergency amendment filed Dec. 12, 1997, effective Dec. 22, 1997, expired June 19, 1998. Amended: Filed Dec. 12, 1997, effective July 30, 1998. Amended: Filed March 1, 1999, effective Oct. 30, 1999.

**Original authority: 313.004, RSMo 1993, amended 1994; 313.052, RSMo 1994; 313.560, RSMo 1986, amended 1987; 313.800, RSMo 1991, amended 1992, 1993, 1994; and 313.805, RSMo 1991, amended 1993, 1994.*

11 CSR 45-13.060 Proceedings

PURPOSE: This rule establishes procedures for conducting hearings.

(1) The commission may issue subpoenas and subpoena *duces tecum* for the production of books, records and other pertinent documents, or upon written request to appear and offer testimony.

(A) Upon written request served on a party, the requesting party shall be entitled to the name and address of any witness who may be called to testify on behalf of a party and all documents or other material in the possession or control of a party which the party reasonably expects will be introduced into evidence, the party shall be under a continuing duty to update this list.

(B) Upon the request of a party and for good cause shown the hearing officer may allow other discovery to be conducted.

(2) The burden of proof is at all times on the petitioner. The petitioner shall have the affirmative responsibility of establishing the facts of his/her case by clear and convincing evidence including, but not limited to:

- (A) Why s/he should be licensed;
- (B) Why s/he should not be disciplined or excluded; and
- (C) Why s/he does not owe a tax or penalty.

(3) All testimony shall be given under oath or affirmation.

(4) Both parties may present an opening statement on the merits. Petitioner proceeds first.

(5) The petitioner shall then present its case-in-chief.

(6) Upon conclusion of the petitioner's case-in-chief, the respondent may move for a

directed finding. The hearing officer may hear arguments on the motion or may grant, deny or reserve decision on the motion, without argument.

(7) If no motion for directed finding is made, or if the motion is denied or decision reserved on the motion, the respondent may present its case.

(8) Each party may conduct cross-examination of adverse witnesses.

(9) Upon conclusion of the respondent's case, the petitioner may present evidence in rebuttal.

(10) Both parties may present closing argument. The petitioner proceeds first, then the respondent and after that the petitioner may present rebuttal argument.

(11) The parties may request, or the hearing officer may require, that the parties submit briefs.

AUTHORITY: sections 313.004, 313.052, 313.560, 313.800 and 313.805, RSMo 1994. Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Emergency amendment filed Dec. 12, 1997, effective Dec. 22, 1997, expired June 19, 1998. Amended: Filed Dec. 12, 1997, effective July 30, 1998.*

**Original authority: 313.004, RSMo 1993, amended, 1994, 313.052, RSMo 1994; 313.560, RSMo 1986, amended 1987; and 313.800 and 313.805, RSMo 1991, amended 1993.*

11 CSR 45-13.065 Settlements

PURPOSE: This rule establishes the procedures for settlements and settlement offers.

(1) The parties may propose settlement agreements to the hearing officer or to the commission at any stage of the proceedings, including prior to the entry of a final order or prior to the initiation of the proceedings.

(2) All settlement agreements shall be in writing, signed by the parties, and accurately reflect all the terms of the settlement, including the facts agreed to by the parties constituting the grounds for the action proposed in the settlement.

(3) The settlement agreement shall be presented to the commission for its approval or

disapproval. If the commission approves the settlement offer it will become the final commission order. If the commission disapproves the settlement offer the parties shall be notified and the settlement agreement and any documents solely relating to the offer shall not constitute part of the record.

AUTHORITY: sections 313.004, 313.052, 313.560, 313.800 and 313.805, RSMo (1994). *Emergency rule filed Dec. 12, 1997, effective Dec. 22, 1997, expires June 19, 1998. Original rule filed Dec. 12, 1997, effective July 30, 1998.

*Original authority: 313.004, RSMo 1993, amended, 1994, 313.052, RSMo 1994; 313.560, RSMo 1986, amended 1987; and 313.800 and 313.805, RSMo 1991, amended 1993.

11 CSR 45-13.070 Transmittal of Record and Recommendation to the Commission

PURPOSE: This rule establishes the procedures for transmittal of the record and recommendations from the hearing officer.

(1) The record shall consist of the following:

(A) The commission's notice to petitioner, the Request for Hearing and all motions and rulings on the Request of Hearing;

(B) All evidence received;

(C) A statement of matters officially noticed;

(D) Offers of proof, objections and ruling on them; and

(E) The recommendations and any findings of fact and conclusions of law made by the hearing officer.

(2) Oral proceedings, or any part of them, shall be recorded stenographically or by other means which adequately insure the preservation of the testimony or oral proceedings and shall be transcribed on request of any party. The transcript shall be paid for by the requesting party.

(3) Upon conclusion of the hearing, the hearing officer shall issue to the commission written Findings of Fact and Conclusions of Law and his/her recommendations. Findings of Fact shall be based exclusively on the evidence and on matters officially noticed.

(4) Final Commission Order.

(A) The commission shall review the entire record and shall render a written decision on the merits which shall contain findings of fact and conclusions of law, and after that will issue a final Commission Order. The commission may adopt the findings of fact and

conclusions of law issued by the hearing officer.

(B) Copies of the final Commission Order shall be served on a petitioner by certified or overnight express mail, postage prepaid, or by personal delivery.

AUTHORITY: sections 313.004, 313.052, 313.560, 313.800 and 313.805, RSMo 1994. *Emergency rule filed Sept. 1, 1993, effective Sept. 20, 1993, expired Jan. 17, 1994. Emergency rule filed Jan. 5, 1994, effective Jan. 18, 1994, expired Jan. 30, 1994. Original rule filed Sept. 1, 1993, effective Jan. 31, 1994. Emergency amendment filed Dec. 12, 1997, effective Dec. 22, 1997, expired June 19, 1998. Amended: Filed Dec. 12, 1997, effective July 30, 1998.

*Original authority: 313.004, RSMo 1993, amended 1994; 313.052, RSMo 1994; 313.560, RSMo 1986, amended 1987; and 313.800 and 313.805, RSMo 1991, amended 1993.