

INTERVENTION FACT SHEET

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What is intervention?

Intervention is a process that allows a person who is not an original party to a case, but who will be directly and substantially affected by the outcome, to participate in the case as a party. The Commission's rule on intervention is Arizona Administrative Code ("A.A.C.") R14-3-105, available [here](#).

Example: In a utility rate case, the original parties are the applicant utility and the Commission's Utilities Division ("Staff"). Sometimes a utility customer whose budget would be significantly affected by the rates proposed in the application desires to present the Commission evidence specifically related to the impact that the rates would have on the customer. To be able to do this, the customer would need to request and be granted intervention, which would make the customer a party to the case—an intervenor. Like the utility and Staff, an intervenor can provide evidence and cross-examine other parties' witnesses.

In a case that will have a hearing, the presiding Administrative Law Judge ("ALJ") will issue a Procedural Order that schedules the case for hearing. The Procedural Order typically includes a specific deadline to request intervention. If no intervention deadline is specified by Procedural Order, a request to intervene should be filed at least 5 days before the hearing commences. (See [A.A.C. R14-3-105](#).) Even for cases that will not have a hearing, and for which no scheduling Procedural Order is issued, a person who will be directly and substantially affected may request to intervene. A person desiring to intervene should file a request to intervene as promptly as possible after learning of a case.

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What are the rights and responsibilities of an intervenor?

An intervenor is a party to the case, just like the regulated entity, Staff, and any other party of record. Party status comes with both rights and responsibilities.

It provides the **right**:

- to participate in discovery to learn about other parties' cases
- to file motions requesting the ALJ to take a specific action, order another to do a specific action, or authorize a specific change in process or schedule (e.g., motion to dismiss, motion for an extension of time)
- to present evidence, through witnesses and/or documents
- to cross-examine other parties' witnesses
- to file Exceptions to a Recommended Opinion and Order (the ALJ's order)
- to request rehearing of a Commission Decision
- to appeal a Commission Decision

It creates the **responsibility**:

- to participate in discovery so that other parties can learn about the intervenor's case

- to attend and participate in all proceedings (procedural conferences, prehearing conferences, the hearing, and the Open Meeting/s at which the Commission discusses the ALJ's order)
- to make all required filings and serve the other parties with all filings made by the intervenor
- to be organized and come prepared for any hearing or other proceeding
- to make available before or at hearing all necessary documents (with copies for the court reporter, the ALJ, and the other parties) and any necessary witnesses to present the intervenor's case
- to have the intervenor's witnesses subjected to cross-examination
- to comply with the Commission's [rules for practice and procedure](#) and with all Procedural Orders

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What is the difference between being an intervenor and providing “public comment”?

An intervenor is a party to a case, with all the rights and responsibilities that entails (see above). A person providing public comment is not a party to a case and does not have those rights and responsibilities.

A person who does not desire to intervene, or who is ineligible to intervene, still has an opportunity to provide the Commission information about a case, by providing oral or written public comment or both.

Public comment, whether made in person or in writing, becomes part of the official docketed record of the case. Public comment is not admitted as evidence, however, and is not afforded the weight of sworn testimony because public commenters are not under oath and are not subject to cross examination. Nonetheless, all public comment received can and may be considered by the ALJ and the Commission when considering a case.

A person who is not an intervenor can attend hearings to observe and to provide public comment at the time allotted, but cannot provide any testimony or other evidence or participate in the questioning of witnesses. To be permitted to question witnesses and provide evidence on the record, a person must file a request to intervene and be granted intervenor status (*i.e.*, party status).

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I don't want to intervene. How do I provide Public Comment?

You can take advantage of the opportunities to provide oral public comment afforded by the Commission. Usually, interested persons have an opportunity to provide public comment on the first day of an evidentiary hearing. In some cases, the Commission schedules public comment proceedings expressly to hear what the public has to say about a case. In addition, at the discretion of the Commissioners, interested persons may have an opportunity to provide public comment during Open Meeting when the Commission schedules the case for discussion and/or

vote. At each of these, each person indicating a desire to speak (generally by signing up to speak) is called upon, in turn, to provide comment.

You can submit written public comment to the Commission by:

- Using the "[Make a Public Comment in a Docket](#)" function on the Commission's website (www.azcc.gov);
- Sending or delivering your hard-copy comments, which must comply with [Filing Requirements](#), to Docket Control at 1200 West Washington Street, Phoenix, AZ 85007;
- [eFiling](#) your public comment document through your [ACC Portal](#) account, if you set one up; or
- Sending an email to one or more Commissioners using the email addresses provided on the [Commission's website](#) (also available on each Commissioner's individual page).

You can also submit public comment to the Commission's Consumer Services Section telephonically. Consumer Services will convert the comments into writing and file them in the appropriate docket. The Commission's Consumer Services Section can be reached by phone as follows:

- Phoenix Office: 602-542-4251
 - Toll Free: 1-800-222-7000
- Tucson Office: 520-628-6550

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What do I need to include in my public comment?

However you submit your public comment, you should include at least:

1. Your full name and the city, state, and zip code where you live (or for your affected property, if different);
2. The name of the regulated company or person involved in the case on which you are commenting (example: APS or Union Pacific Railroad Company)
3. The docket number for the case on which you are commenting (must be on the first page);
3. Why you are interested in the case; and
4. Whatever it is you want to say about the case, including how you will be impacted by the outcome of the case.

If you do not include the docket number for the case, Commission personnel may not be able to identify which case your comments discuss, and your comments may not be filed in the correct docket.

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I want to intervene. How do I request intervention?

Instructions on how to request intervention as an individual are available [here](#).

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Will I be allowed to intervene?

Intervention is not automatic. You will not be granted intervention unless you have demonstrated a direct and substantial interest in the outcome of the case and that your intervention would not unduly broaden the issues before the Commission in the case. The ALJ will not act on your request to intervene until the parties of record have had an opportunity to object to your requested intervention. You will be notified in writing, or orally during a procedural conference or other proceeding, regarding the decision on your request to intervene.

If you are representing yourself and not your company or organization, you may represent yourself in a case before the Commission and should include that information in your intervention request.

If you desire to intervene on behalf of your company or organization, the Arizona Supreme Court Rules may require representation by an Arizona-licensed attorney. If that is the case, and your intervention request is not filed by such an attorney, your request to intervene will not be granted until you have obtained an attorney to represent you. See [“Do I need an attorney?”](#) below.

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Do I need an attorney?

If you are an individual representing only yourself (i.e., not your company, another individual, or any type of organization), you may represent yourself before the Commission and are not required to hire an attorney to represent you.

An individual may not represent another individual before the Commission unless authorized to practice law in Arizona and generally may not represent an organization before the Commission unless authorized to practice law in Arizona. The Arizona Supreme Court restricts the practice of law to Arizona-licensed attorneys, with certain exceptions (see [Arizona Supreme Court Rule 31](#); [Arizona Supreme Court Rule 31.1](#); [Arizona Supreme Court 31.2](#); [Arizona Supreme Court Rule 31.3](#)).

The Arizona Supreme Court has created an exception specific to proceedings before the Commission that allows a legal entity to be represented by a person who is not an Arizona-licensed attorney if:

1. The person is an officer, partner, member, manager, or employee of the legal entity;
2. The entity has specifically authorized the person to represent it in the particular proceeding;
3. The representation is not the person’s primary duty to the entity, but is secondary or incidental to other duties relating to the entity’s management or operation; and
4. The person is not receiving separate or additional compensation for representing the entity (other than receiving reimbursement for costs).

(See [Arizona Supreme Court Rule 31.3\(c\)\(5\) and \(6\)](#).)

If this exception applies for your representation of your company or organization, you need to provide a board resolution or other documentation to establish that you have been authorized to represent the company or organization.

An attorney who is licensed in another state, but not in Arizona, may represent an individual or entity before the Commission only if that attorney is admitted to practice law in Arizona pro hac vice and **only after the Procedural Order granting admission pro hac vice** in the case. An out-of-state attorney who makes an appearance in a Commission case before being granted admission pro hac vice in the case commits the **unauthorized practice of law**.

(See [Arizona Supreme Court Rule 39](#) regarding admission pro hac vice.)

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If I don't hire an attorney, where can I get legal advice and assistance?

You cannot obtain legal advice from Commission personnel. However, Commission personnel can try to help you understand and follow the procedures necessary for you to present the information you desire to have considered by the ALJ and Commission. If you need legal advice, you must consult a licensed Arizona attorney.

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Whom do I talk to if I have a question about the pending case?

If, after obtaining and reviewing all relevant Procedural Orders, you still have a procedural question concerning a case that is before the Hearing Division, you may contact the Hearing Division at (602) 542-4250. You will need to identify who you are and to provide the docket number for the case so that administrative staff of the Hearing Division can locate the information about the case necessary to respond to your question. Depending on the question, administrative staff may need to call you back with a response.

Administrative staff of the Hearing Division are prohibited from answering questions concerning any substantive aspects of a case and are prohibited from providing legal advice.

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Can I communicate directly with a Commissioner or the ALJ?

After a hearing has been scheduled in a contested case or the Commission's unauthorized communications rule ("ex parte rule," A.A.C. R14-3-113) has been invoked (generally through a Procedural Order), you **may not** communicate with the ALJ or with any Commissioner (or Commissioner's Advisor) concerning any substantive aspect of the pending case, except on the record during an official proceeding or Open Meeting or in a writing that is filed in the docket and served on all parties of record. Such a substantive communication with the ALJ or any Commissioner (or Commissioner's Advisor), if made off the public record concerning a pending case, would be considered an ex parte communication in violation of the Commission's

unauthorized communications rule (A.A.C. R14-3-113). This restriction does not apply to rulemakings or generic dockets, because those case types do not have parties.

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What if I'm an intervenor and I want the ALJ to do something before the hearing?

As a party, if you want the ALJ to take a particular action in the case (such as resolve a discovery dispute, extend a filing deadline, or reschedule the hearing), you must file a formal motion containing the request. You may file the motion electronically using [eFiling](#) or in hard copy with Docket Control (in accordance with [Filing Requirements](#)). Whichever manner of filing you choose, you must ensure that the motion is served on all parties of record in the case on the day of filing. Before filing the motion, you should contact the other parties informally to find out whether they will agree to your request.

The motion should include an explanation of your request, an explanation of the good cause that supports the granting of your request, and a statement of the other parties' positions regarding the request (to the extent that you know their positions). If all parties to a case are in agreement about the request, the ALJ should be able to act upon it quickly. If the motion does not provide the other parties' positions, or not all parties are in agreement, the ALJ generally will not act on the motion until the other parties have had an opportunity to respond. Depending on the circumstances surrounding the motion, the ALJ may schedule a procedural conference at which the motion will be discussed.

Unless otherwise specified in a Procedural Order for the case, responses to non-dispositive motions are generally due within 7 days, and responses to dispositive motions are generally due within 10 days. Any reply to a response is generally due within 5 days after the response is filed.

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If I don't intervene, how can I keep track of the case?

If you do not intervene, you will not be sent copies of the filings made in the docket by the ALJ or the parties of record. **However, all documents filed in the docket are available online** (usually within 24 hours after docketing) at the Commission's website, www.azcc.gov, using the [eDocket](#) function. You may also sign up to follow the docket for the case using the [ACC Portal](#). See [Follow a Docket or Document Type](#). If you follow a docket, you will receive a notification email each time a filing made in the case is approved. The email will provide a link to the new filing. (If you follow a document type or types, you will receive a notification email each time such a document type is filed.)

Even if you choose **not** to intervene, or your request to intervene is denied, you will still be able to attend the hearing, provide public comment, follow the docket, and review all of the documents filed in the case.

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What is the docket number and where do I find it?

The unique number assigned to each Commission case by Docket Control is included on the first page of each official document filed for the case. It is generally located on the upper portion of the page, to the right of the caption that includes the case name.

A docket number generally looks similar to this:

W-12345A-23-0123

The letter indicates the type of regulated company or person involved (e.g., W for water, E for electric, etc.), the group of five numbers and one letter indicates the specific regulated company or person involved (each has a unique number), the two numbers indicate the year the case file was opened, and the final four numbers indicate where the case file falls within that year (i.e., the above example would be the 123rd case file opened in 2023).

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Where do I find the parties of record?

To determine who the parties are, you should go to the Commission's website, select "eDocket," enter the last six digits of the case number (including the hyphen, e.g., 23-0123) in the search window to bring up the specific case page, and then select the "Service List" tab within the case page. All of the parties to the case should be listed there, along with the names of their representatives, their mailing addresses, and their email addresses (if they have consented to email service). If a party is represented by an attorney, you must serve a copy of each of your filings on the attorney. You may provide courtesy copies of your filings to any additional persons you choose.

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How do I serve documents on other parties?

Generally, service may be made by sending the documents by First Class U.S. Mail, postage paid, to a proper address. You may also send the documents through an alternate delivery service (e.g., Federal Express) or have the documents delivered personally by a courier. In many cases, the parties consent to service by email. To determine whether email service can be used for a party in a case, review the service list on [eDocket](#) to see whether "Email Opt-In" has been checked for that party. If you desire to have service upon you made by email, you may (1) [complete a global consent to email service for any docket in which you become a party](#), or (2) file a [consent to email service for one specific docket](#).

On the original and docketed copies of documents required to be served, you must include either an acknowledgment of service from the recipient (very uncommon) or a signed and dated certification of service stating that all parties of record have been served and identifying the manner of service. See the [Filing Requirements](#) for the format of a certificate of service.

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I've been granted intervenor status. Now what?

As an intervenor, you will be expected to make a reasonable effort to educate yourself about the Commission's rules and procedures. You should start by familiarizing yourself with the Commission's Rules of Practice and Procedure ([A.A.C. Title 14, Chapter 3, Article 1](#)).

You should also review the documents already filed in the docket for the case, to become familiar with all of the requirements and deadlines included therein. You should pay special attention to any Procedural Orders issued, as this is where most requirements and deadlines will be found. You will be expected to have knowledge of the documents filed in the case, even those filed prior to your involvement, and you will be required to comply with any applicable requirements and deadlines found therein. To make sure the process is fair for all participants, a party's failure to file a document by the established deadline could result in the exclusion of the document.

You can see what has been filed in a case by going to the Commission's website (www.azcc.gov) and searching for the case using the eDocket function and the assigned docket number. [*What is the docket number and where do I find it?*](#)

Because the Commission's procedural rules refer to the Arizona Rules of Civil Procedure, it may be helpful for you to review those as well. Those rules are available through the Arizona Judicial Branch website (<https://www.azcourts.gov/rules/>) by selecting the "Current Arizona Rules" link and then the link for the ["Rules of Civil Procedure for the Superior Courts of Arizona."](#)

As an intervenor, you are expected to share information with other parties upon request and to obtain information from other parties through a process known as **Discovery**. You are allowed to communicate directly with any other party or, if the party is represented by an attorney, the attorney for the party. The discovery process is intended to allow parties to prepare for hearing by learning the positions and supporting documents of the other parties, so that hearings can run efficiently without surprises. The most common methods of discovery used in cases before the Commission are written questions submitted by one party to another, commonly referred to as "data requests."

In many cases, a procedural conference (or more than one) is held before the scheduled hearing date. A procedural conference can be scheduled upon the request of a party or whenever the ALJ determines that an issue or motion can best be addressed through live discussion rather than filings in the docket. As an intervenor, you will be expected to attend all procedural conferences.

In some cases, a pre-hearing conference will be held approximately one week prior to the hearing. This usually occurs in larger or more complicated cases with multiple parties. At a pre-hearing conference, the ALJ and parties will discuss procedural issues (such as the scheduling of witnesses and whether there are any objections to pre-filed testimony) as well as the procedural guidelines that will be used to govern the hearing (these could include the length of opening statements, whether written briefs will be required in lieu of closing arguments, etc.). The ALJ may also make the parties aware of specific questions or topics that the ALJ desires the parties to address at hearing, to help ensure that the record is clear and complete. As an intervenor, you will be expected to attend any pre-hearing conference.

Your job as an intervenor is to present the information and argument that you believe best demonstrates why the ALJ and the Commission should support your position. You should ensure that you are prepared for that role. You may be required to file written testimony before the hearing, and you will generally be expected to provide live testimony and to offer exhibits at hearing. (Sometimes intervenors choose to offer no evidence themselves and only to cross-examine other parties' witnesses.)

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What happens at hearing, and what do I have to do as an intervenor?

Hearings at the Commission resemble trial court proceedings, but are less formal. Each hearing is presided over by an Administrative Law Judge ("ALJ"), and sometimes one or more Commissioners also attends and joins the ALJ on the bench. The Rules of Evidence and Rules of Civil Procedure are not strictly applied in Commission hearings, although they are used for guidance. This flexibility allows for development of a more comprehensive record from which the Commission can reach its decision.

At the hearing, you should be prepared to present a brief opening statement, present evidence through witness testimony and documents, cross-examine other parties' witnesses, and make closing arguments (parties may be required to file briefs instead of or in addition to providing closing arguments).

If there are documents that you desire to have admitted as evidence in the case, you need to provide copies of those documents before the hearing as required by Procedural Order or at the hearing if permitted by the ALJ. You will be required to provide at least one copy to be the official exhibit and may be required to provide an additional copy for the use of the ALJ. You should organize your exhibits before the hearing (and likely will be required to do so by Procedural Order), and your exhibits should be labeled sequentially in the order in which you expect to offer them. (For example, if you are the only intervenor, you might label your first exhibit "INT-1," the second "INT-2," and so on. If you are not the only intervenor, you might use your initials instead—e.g., if your name were John Alan Doe, you might label your first exhibit "JAD-1," and so forth.)

When you offer a document at hearing, you will generally need a witness to identify it, explain what it is and who made it, explain how the witness is familiar with it, and explain why it is important. If you are your only witness, you would be expected to do that yourself from the witness stand.

Hearings generally proceed as follows:

- The ALJ takes the appearances of the parties.
- Any outstanding motions or other issues affecting the hearing are discussed.
- Public comment is taken.
- Each party makes an opening statement (a brief recitation of the issues and what the party believes the evidence will show, not a time to present evidence).

- Each party, in turn, provides evidence, in the form of witness testimony and documentary evidence. Each witness is subject to cross examination by other parties.
- Each party makes a closing argument, or the ALJ directs that closing briefs must be filed (whether verbal or in writing, closing argument provides an opportunity to explain why the ALJ should rule one way or another).
- The ALJ adjourns the hearing.

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What happens after the hearing?

Following the hearing, the ALJ will take the case under advisement. The transcript for the hearing will be available 10 business days after the hearing adjourns, unless an expedited transcript has been ordered by a party at that party's expense. (To obtain a copy of the transcript, a party must make arrangements with the court reporting agency.) Once the transcript is available, the ALJ will review it along with the exhibits admitted in the case and then prepare a Recommended Opinion and Order ("ROO"). The ROO will provide the ALJ's recommendations for how the Commission should decide the case. The ROO will be filed with Docket Control and served on all parties of record on the day that it is issued. Each ROO is issued with a cover letter that contains a deadline for parties to file Exceptions to the ROO. The cover letter generally also identifies the Commission Open Meeting at which the ROO is expected to be discussed.

Exceptions are a party's written response to a ROO, in which the party expresses disagreement or concern with something in the ROO or provides clarification concerning something in the ROO. Parties are not required to file Exceptions.

In most cases, the ROO will be placed on the agenda for an Open Meeting soon after the ROO is issued. The Commission decides when the ROO for a case will be considered at Open Meeting and creates the Open Meeting Agenda. Open Meeting dates are available [here](#) and on the Commission's [Event Calendar](#). Open Meeting Agendas are available here once they become available: <https://azcc.gov/live>

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What happens at Open Meeting?

If the ROO for a case is on the agenda for an Open Meeting, the Commission is likely to reach a decision regarding the outcome for the case at that Open Meeting, unless the case is controversial. If the ROO is listed on the Commission's Proposed Consent Agenda, it will usually only be discussed upon the request of a Commissioner or a member of the public and may be voted upon without any discussion. If the ROO is listed on the Commission's Regular Agenda, the Commission will discuss the ROO at least briefly and then will generally vote on the ROO. Sometimes a ROO will be discussed at multiple Open Meetings and will even have amendments voted on at multiple Open Meetings. The Commission can decide to adopt a ROO as is or with minor or major changes made through amendments, can vote not to adopt a ROO at all (if the ROO as is or as amended fails), or can decide not to have a vote on a ROO. The

Commission can also hold a ROO instead of placing it on an Open Meeting Agenda. The Commission makes the ultimate decision in each case before it and is not bound by the recommendations of the ALJ as set forth in the ROO or by the submissions of any party to the case.

As an intervenor, you should attend, either remotely or in person, the Open Meeting at which the ROO for your case will be considered by the Commission (i.e., is on the agenda). In their discussion and consideration of a ROO during Open Meeting, the Commissioners may have questions for the parties. If the Commissioners have questions for you, and you are not available to respond to them, you could lose the opportunity to present your position directly to the Commissioners before they vote on the ROO.

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Can I attend the Open Meeting remotely?

Yes, the Commission allows parties to appear at an Open Meeting remotely using WebEx or by phone. Each party to an Open Meeting agenda item will be permitted to appear in-person, by videoconference, or by telephone during the Commission's consideration of the item at the Open Meeting. To participate by videoconference for an agenda item, a person must have an ACC Portal Account (create an account for free at <https://efiling.azcc.gov/sign-in>) and must complete the process on the ACC Portal to "Request to Speak at Open Meetings" for the item. The Request to Speak process for an agenda item can be completed as soon as the Open Meeting agenda is posted and must be completed at least one hour before the Open Meeting is to start. A party who has completed the Request to Speak process for an agenda item will receive, before the start of the meeting on the day of the Open Meeting, an email with a WebEx link and instructions to participate in the Open Meeting. A party may also opt to participate telephonically by using the phone number and code to speak shown on the Open Meeting agenda. A party who participates telephonically must enter *6 to unmute when they are to speak to the Commission and must enter *6 again to go back on mute when they are finished speaking.

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