

1980 WL 121169 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 14, 1980

*1 Honorable Harold Trask
Chairman
South Carolina Industrial Commission
1800 St. Julian Place
Columbia, South Carolina 29204

Dear Commissioner Trask:

You have asked whether the Full Commission, when sitting to hear appeals, has the authority under Section 42-17-80 or under Industrial Commission Rule 67-21 to impose hearing costs on the losing party.

Section 42-17-80 authorizes the Commission to assess hearing costs only if it is determined that the person against whom the costs are assessed has brought or defended the claim without reasonable grounds. Rule 67-21 authorizes the Commission to assess an administrative cost only if a hearing is canceled without legal reason. It is clear that the Commission does not have the authority under Section 42-17-80 or Rule 67-21 to assess hearing costs solely because the party has lost at the appellate stage.

It is law in this state that a rule cannot be made by an administrative body which would materially add to or alter the law; a valid rule may only implement the law. [Banks v. Batesburg Hauling Company](#), 202 S.C. 273, 24 S.E.2d 496 (1943); [Lee v. Michigan Millers Mutual Insurance Company](#), 250 S.C. 462, 158 S.E.2d 774 (1968). Thus, the authority that the Commission desires to impose hearing costs on the losing party in appeals before the Full Commission must come in the form of legislation.

If you have any questions, please do not hesitate to contact me.

Sincerely,

James W. Johnson, Jr.
Assistant Attorney General

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