

§ 1.296

§ 1.296 Service.

No pleading filed pursuant to § 1.51 or § 1.294 will be considered unless it is accompanied by proof of service upon the parties to the proceeding.

(Secs. 4(i), 303(r) and 5(c)(1) of the Communications Act of 1934, as amended; 47 CFR 0.61 and 0.283)

[49 FR 4381, Feb. 6, 1984, as amended at 62 FR 4171, Jan. 29, 1997]

§ 1.297 Oral argument.

Oral argument with respect to any contested interlocutory matter will be held when, in the opinion of the person(s) who is to make the ruling, the ends of justice will be best served thereby. Timely notice will be given of the date, time, and place of any such oral argument.

[29 FR 6444, May 16, 1964]

§ 1.298 Rulings; time for action.

(a) Unless it is found that irreparable injury would thereby be caused one of the parties, or that the public interest requires otherwise, or unless all parties have consented to the contrary, consideration of interlocutory requests will be withheld until the time for filing oppositions (and replies, if replies are allowed) has expired. As a matter of discretion, however, requests for continuances and extensions of time, requests for permission to file pleadings in excess of the length prescribed in this chapter, and requests for temporary relief may be ruled upon *ex parte* without waiting for the filing of responsive pleadings.

(b) In the discretion of the presiding officer, rulings on interlocutory matters may be made orally at the hearing. The presiding officer may, in his discretion, state his reasons on the record or subsequently issue a written statement of the reasons for his ruling, either separately or as part of the initial decision.

[28 FR 12425, Nov. 22, 1963, as amended at 29 FR 6444, May 16, 1964; 41 FR 14874, Apr. 8, 1976]

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APPEAL AND RECONSIDERATION OF PRESIDING OFFICER'S RULING

§ 1.301 Appeal from presiding officer's interlocutory ruling; effective date of ruling.

(a) *Interlocutory rulings which are appealable as a matter of right.* Rulings listed in this paragraph are appealable as a matter of right. An appeal from such a ruling may not be deferred and raised as an exception to the initial decision.

(1) If the presiding officer's ruling denies or terminates the right of any person to participate as a party to a hearing proceeding, such person, as a matter of right, may file an appeal from that ruling.

(2) If the presiding officer's ruling requires testimony or the production of documents, over objection based on a claim of privilege, the ruling on the claim of privilege is appealable as a matter of right.

(3) If the presiding officer's ruling denies a motion to disqualify the presiding judge, the ruling is appealable as a matter of right.

(4) Rulings granting a joint request filed under § 1.525 without terminating the proceeding are appealable by any party as a matter of right.

(5) A ruling removing counsel from the hearing is appealable as a matter of right, by counsel on his own behalf or by his client. (In the event of such ruling, the presiding officer will adjourn the hearing for such period as is reasonably necessary for the client to secure new counsel and for counsel to familiarize himself with the case).

(b) *Other interlocutory rulings.* Except as provided in paragraph (a) of this section, appeals from interlocutory rulings of the presiding officer shall be filed only if allowed by the presiding officer. Any party desiring to file an appeal shall first file a request for permission to file appeal. The request shall be filed within 5 days after the order is released or (if no written order) after the ruling is made. Pleadings responsive to the request shall be filed only if they are requested by the presiding officer. The request shall contain a showing that the appeal presents a new or novel question of law or policy and that the ruling is such that