

§ 1.334

relevance and materiality of the evidence sought.

(d) Requests for subpoenas shall be submitted in triplicate, but need not be served on the parties to the proceeding.

(e) Requests for issuance of a subpoena ad testificandum to enforce a notice to take depositions shall be submitted in writing. Such requests may be submitted with the notice or at a later date. The request shall not be granted until the period for the filing of motions opposing the taking of depositions has expired or, if a motion has been filed, until that motion has been acted on. Regardless of the time when the subpoena request is submitted, it need not be accompanied by a showing that relevant and material evidence will be adduced, but merely that the person will be examined regarding a nonprivileged matter which is relevant to the hearing issues. The subpoena request may ask that a subpoena duces tecum be contemporaneously issued commanding the person to whom it is directed to produce designated books, papers, documents, or tangible things which constitute or contain evidence relating to any of the matters within the scope of the examination permitted by § 1.311(b) but in that event the subpoena request will be subject to the provisions of § 1.313 and paragraph (b) of this section.

(f) Requests for issuance of a subpoena duces tecum to enforce an order for the production of documents and things for inspection and copying under § 1.325 may be submitted with the motion requesting the issuance of such an order. Regardless of the time when the subpoena request is submitted, it need not be accompanied by a showing that relevant and material evidence will be adduced, but merely that the documents and things to be examined contain nonprivileged matter which is relevant to the subject matter of the proceeding.

[28 FR 12425, Nov. 22, 1963, as amended at 33 FR 466, Jan. 12, 1968; 47 FR 51873, Nov. 18, 1982]

§ 1.334 Motions to quash.

Any person against whom a subpoena is directed may file a motion to quash or limit the subpoena, setting forth the reasons why the subpoena should not be

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complied with or why it should be limited in scope.

§ 1.335 Rulings.

Prompt notice, including a brief statement of the reasons therefor, will be given of the denial, in whole or in part, of a request for subpoena or of a motion to quash.

§ 1.336 Service of subpoenas.

(a) A subpoena may be served by a United States marshal or his deputy, by Commission personnel, or by any person who is not a party to the proceeding and is not less than 18 years of age.

(b) Service of a subpoena upon the person named therein shall be made by exhibiting the original subpoena to him, by reading the original subpoena to him if he is unable to read, by delivering the duplicate subpoena to him, and by tendering to him the fees for one day's attendance at the proceeding to which he is summoned and the mileage allowed by law. If the subpoena is issued on behalf of the United States or an officer or agency thereof, attendance fees and mileage need not be tendered.

§ 1.337 Return of service.

(a) If service of the subpoena is made by a person other than a United States marshal or his deputy such person shall make affidavit thereof, stating the date, time, and manner of service.

(b) In case of failure to make service, the reasons for the failure shall be stated on the original subpoena by the person who attempted to make service.

(c) The original subpoena, bearing or accompanied by the required return affidavit or statement, shall be returned forthwith to the Secretary of the Commission or, if so directed on the subpoena, to the official before whom the person named in the subpoena is required to appear.

§ 1.338 Subpoena forms.

(a) Subpoena forms, marked "Original", "Duplicate", and "Triplicate", and bearing the Commission's seal, may be obtained from the Commission's Dockets Division. These forms are to be completed and submitted with any request for issuance of a subpoena.

(b) If the request for issuance of a subpoena is granted, the "Original" and "Duplicate" copies of the subpoena are returned to the person who submitted the request. The "Triplicate" copy is retained for the Commission's files.

(c) The "Original" copy of the subpoena includes a form for proof of service. This form is to be executed by the person who effects service and returned by him to the Secretary of the Commission or, if so directed on the subpoena, to the official before whom the person named in the subpoena is required to appear.

(d) The "Duplicate" copy of the subpoena shall be served upon the person named therein and retained by him. This copy should be presented in support of any claim for witness fees or mileage allowances for testimony on behalf of the Commission.

§ 1.339 Witness fees.

Witnesses who are subpoenaed and respond thereto are entitled to the same fees, including mileage, as are paid for like service in the courts of the United States. Fees shall be paid by the party at whose instance the testimony is taken.

§ 1.340 Attendance of witness; disobedience.

The attendance of witnesses and the production of documentary evidence may be required from any place in the United States at any designated place of hearing. In case of disobedience to a subpoena, the Commission or any party to a proceeding before the Commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence.

EVIDENCE

§ 1.351 Rules of evidence.

Except as otherwise provided in this subpart, the rules of evidence governing civil proceedings in matters not involving trial by jury in the courts of the United States shall govern formal hearings. Such rules may be relaxed if the ends of justice will be better served by so doing.

§ 1.352 Cumulative evidence.

The introduction of cumulative evidence shall be avoided, and the number of witnesses that may be heard in behalf of a party on any issue may be limited.

§ 1.353 Further evidence during hearing.

At any stage of a hearing, the presiding officer may call for further evidence upon any issue and may require such evidence to be submitted by any party to the proceeding.

§ 1.354 Documents containing matter not material.

If material and relevant matter offered in evidence is embraced in a document containing other matter not material or relevant, and not intended to be put in evidence, such document will not be received, but the party offering the same shall present to other counsel, and to the presiding officer, the original document, together with true copies of such material and relevant matter taken therefrom, as it is desired to introduce. Upon presentation of such matter, material and relevant, in proper form, it may be received in evidence, and become a part of the record. Other counsel will be afforded an opportunity to introduce in evidence, in like manner, other portions of such document if found to be material and relevant.

§ 1.355 Documents in foreign language.

Every document, exhibit, or other paper written in a language other than English, which shall be filed in any proceeding, or in response to any order, shall be filed in the language in which it is written together with an English translation thereof duly verified under oath to be a true translation. Each copy of every such document, exhibit, or other paper filed shall be accompanied by a separate copy of the translation.

§ 1.356 Copies of exhibits.

No document or exhibit, or part thereof, shall be received as, or admitted in, evidence unless offered in duplicate. In addition, when exhibits of a