

Federal Communications Commission

§ 1.104

§ 1.102 Effective dates of actions taken pursuant to delegated authority.

(a) *Final actions following review of an initial decision.* (1) Final decisions of a commissioner, or panel of commissioners following review of an initial decision shall be effective 40 days after public release of the full text of such final decision.

(2) If a petition for reconsideration of such final decision is filed, the effect of the decision is stayed until 40 days after release of the final order disposing of the petition.

(3) If an application for review of such final decision is filed, or if the Commission on its own motion orders the record of the proceeding before it for review, the effect of the decision is stayed until the Commission's review of the proceeding has been completed.

(b) *Non-hearing and interlocutory actions.* (1) Non-hearing or interlocutory actions taken pursuant to delegated authority shall, unless otherwise ordered by the designated authority, be effective upon release of the document containing the full text of such action, or in the event such a document is not released, upon release of a public notice announcing the action in question.

(2) If a petition for reconsideration of a non-hearing action is filed, the designated authority may in its discretion stay the effect of its action pending disposition of the petition for reconsideration. Petitions for reconsideration of interlocutory actions will not be entertained.

(3) If an application for review of a non-hearing or interlocutory action is filed, or if the Commission reviews the action on its own motion, the Commission may in its discretion stay the effect of any such action until its review of the matters at issue has been completed.

[28 FR 12415, Nov. 22, 1963, as amended at 62 FR 4170, Jan. 29, 1997]

§ 1.103 Effective dates of Commission actions; finality of Commission actions.

(a) Unless otherwise specified by law or Commission rule (e.g. §§1.102 and 1.427), the effective date of any Commission action shall be the date of public notice of such action as that latter date is defined in §1.4(b) of these rules:

Provided, That the Commission may, on its own motion or on motion by any party, designate an effective date that is either earlier or later in time than the date of public notice of such action. The designation of an earlier or later effective date shall have no effect on any pleading periods.

(b) Notwithstanding any determinations made under paragraph (a) of this section, Commission action shall be deemed final, for purposes of seeking reconsideration at the Commission or judicial review, on the date of public notice as defined in §1.4(b) of these rules.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[46 FR 18556, Mar. 25, 1981]

§ 1.104 Preserving the right of review; deferred consideration of application for review.

(a) The provisions of this section apply to all final actions taken pursuant to delegated authority, including final actions taken by members of the Commission's staff on nonhearing matters. They do not apply to interlocutory actions of the Chief Administrative Law Judge in hearing proceedings, or to hearing designation orders issued under delegated authority. See §§0.351, 1.106(a) and 1.115(e).

(b) Any person desiring Commission consideration of a final action taken pursuant to delegated authority shall file either a petition for reconsideration or an application for review (but not both) within 30 days from the date of public notice of such action, as that date is defined in §1.4(b) of these rules. The petition for reconsideration will be acted on by the designated authority or referred by such authority to the Commission: *Provided,* That a petition for reconsideration of an order designating a matter for hearing will in all cases be referred to the Commission. The application for review will in all cases be acted upon by the Commission.

NOTE: In those cases where the Commission does not intend to release a document containing the full text of its action, it will state that fact in the public notice announcing its action.

(c) If in any matter one party files a petition for reconsideration and a second party files an application for review, the Commission will withhold action on the application for review until final action has been taken on the petition for reconsideration.

(d) Any person who has filed a petition for reconsideration may file an application for review within 30 days from the date of public notice of such action, as that date is defined in § 1.4(b) of these rules. If a petition for reconsideration has been filed, any person who has filed an application for review may: (1) Withdraw his application for review, or (2) substitute an amended application therefor.

NOTE: In those cases where the Commission does not intend to release a document containing the full text of its action, it will state that fact in the public notice announcing its action.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

[28 FR 12415, Nov. 22, 1963, as amended at 41 FR 14871, Apr. 8, 1976; 44 FR 60294, Oct. 19, 1979; 46 FR 18556, Mar. 25, 1981; 62 FR 4170, Jan. 29, 1997]

§ 1.106 Petitions for reconsideration in non-rulemaking proceedings.

(a)(1) Except as provided in paragraphs (b)(3) and (p) of this section, petitions requesting reconsideration of a final Commission action in non-rulemaking proceedings will be acted on by the Commission. Petitions requesting reconsideration of other final actions taken pursuant to delegated authority will be acted on by the designated authority or referred by such authority to the Commission. A petition for reconsideration of an order designating a case for hearing will be entertained if, and insofar as, the petition relates to an adverse ruling with respect to petitioner's participation in the proceeding. Petitions for reconsideration of other interlocutory actions will not be entertained. (For provisions governing reconsideration of Commission action in notice and comment rulemaking proceedings, see § 1.429. This § 1.106 does not govern reconsideration of such actions.)

(2) Within the period allowed for filing a petition for reconsideration, any party to the proceeding may request

the presiding officer to certify to the Commission the question as to whether, on policy in effect at the time of designation or adopted since designation, and undisputed facts, a hearing should be held. If the presiding officer finds that there is substantial doubt, on established policy and undisputed facts, that a hearing should be held, he will certify the policy question to the Commission with a statement to that effect. No appeal may be filed from an order denying such a request. See also, §§ 1.229 and 1.251.

(b)(1) Subject to the limitations set forth in paragraph (b)(2) of this section, any party to the proceeding, or any other person whose interests are adversely affected by any action taken by the Commission or by the designated authority, may file a petition requesting reconsideration of the action taken. If the petition is filed by a person who is not a party to the proceeding, it shall state with particularity the manner in which the person's interests are adversely affected by the action taken, and shall show good reason why it was not possible for him to participate in the earlier stages of the proceeding.

(2) Where the Commission has denied an application for review, a petition for reconsideration will be entertained only if one or more of the following circumstances are present:

(i) The petition relies on facts or arguments which relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters to the Commission; or

(ii) The petition relies on facts or arguments unknown to petitioner until after his last opportunity to present them to the Commission, and he could not through the exercise of ordinary diligence have learned of the facts or arguments in question prior to such opportunity.

(3) A petition for reconsideration of an order denying an application for review which fails to rely on new facts or changed circumstances may be dismissed by the staff as repetitious.

(c) In the case of any order other than an order denying an application