

§ 1.27

§ 1.27 Witnesses; right to counsel.

Any individual compelled to appear in person in any Commission proceeding may be accompanied, represented, and advised by counsel as provided in this section. (Regulations as to persons seeking voluntarily to appear and give evidence are set forth in § 1.225.)

(a) Counsel may advise his client in confidence, either upon his own initiative or that of the witness, before, during, and after the conclusion of the proceeding.

(b) Counsel for the witness will be permitted to make objections on the record, and to state briefly the basis for such objections, in connection with any examination of his client.

(c) At the conclusion of the examination of his client, counsel may ask clarifying questions if in the judgment of the presiding officer such questioning is necessary or desirable in order to avoid ambiguity or incompleteness in the responses previously given.

(d) Except as provided by paragraph (c) of this section, counsel for the witness may not examine or cross-examine any witness, or offer documentary evidence, unless authorized by the Commission to do so.

(5 U.S.C. 555)

[29 FR 12775, Sept. 10, 1964]

§§ 1.28–1.29 [Reserved]

PLEADINGS, BRIEFS, AND OTHER PAPERS

§ 1.41 Informal requests for Commission action.

Except where formal procedures are required under the provisions of this chapter, requests for action may be submitted informally. Requests should set forth clearly and concisely the facts relied upon, the relief sought, the statutory and/or regulatory provisions (if any) pursuant to which the request is filed and under which relief is sought, and the interest of the person submitting the request. In application and licensing matters pertaining to the Wireless Radio Services, as defined in § 1.904 of this part, such requests may

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also be sent electronically, via the ULS.

[28 FR 12415, Nov. 22, 1963, as amended at 63 FR 68919, Dec. 14, 1998]

§ 1.42 Applications, reports, complaints; cross-reference.

(a) Rules governing applications and reports are contained in subparts D, E, and F of this part.

(b) Special rules governing complaints against common carriers arising under the Communications Act are set forth in subpart E of this part.

(c) Rules governing the FCC Registration Number (FRN) are contained in subpart W of this part.

[28 FR 12415, Nov. 22, 1963, as amended at 66 FR 47895, Sept. 14, 2001]

§ 1.43 Requests for stay; cross-reference.

General rules relating to requests for stay of any order or decision are set forth in §§ 1.41, 1.44(e), 1.45 (d) and (e), and 1.298(a). See also §§ 1.102, 1.106(n), and 1.115(h).

§ 1.44 Separate pleadings for different requests.

(a) Requests requiring action by the Commission shall not be combined in a pleading with requests for action by an administrative law judge or by any person or persons acting pursuant to delegated authority.

(b) Requests requiring action by an administrative law judge shall not be combined in a pleading with requests for action by the Commission or by any person or persons acting pursuant to delegated authority.

(c) Requests requiring action by any person or persons pursuant to delegated authority shall not be combined in a pleading with requests for action by any other person or persons acting pursuant to delegated authority.

(d) Pleadings which combine requests in a manner prohibited by paragraph (a), (b), or (c) of this section may be returned without consideration to the person who filed the pleading.

(e) Any request to stay the effectiveness of any decision or order of the Commission shall be filed as a separate pleading. Any such request which is not filed as a separate pleading will not be considered by the Commission.

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NOTE: Matters which are acted on pursuant to delegated authority are set forth in subpart B of part 0 of this chapter. Matters acted on by the hearing examiner are set forth in §0.341.

§ 1.45 Pleadings; filing periods.

Except as otherwise provided in this chapter, pleadings in Commission proceedings shall be filed in accordance with the provisions of this section. Pleadings associated with licenses, applications, waivers and other documents in the Wireless Radio Services may be filed via the ULS.

(a) *Petitions.* Petitions to deny may be filed pursuant to §1.939 of this part.

(b) *Oppositions.* Oppositions to any motion, petition, or request may be filed within 10 days after the original pleading is filed.

(c) *Replies.* The person who filed the original pleading may reply to oppositions within 5 days after the time for filing oppositions has expired. The reply shall be limited to matters raised in the oppositions, and the response to all such matters shall be set forth in a single pleading; separate replies to individual oppositions shall not be filed.

(d) *Requests for temporary relief; shorter filing periods.* Oppositions to a request for stay of any order or to a request for other temporary relief shall be filed within 7 days after the request is filed. Replies to oppositions should not be filed and will not be considered. The provisions of §1.4(h) shall not apply in computing the filing date for oppositions to a request for stay or for other temporary relief.

(e) *Ex parte disposition of certain pleadings.* As a matter of discretion, the Commission may rule *ex parte* upon 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, without waiting for the filing of oppositions or replies.

NOTE: Where specific provisions contained in part 1 conflict with this section, those specific provisions are controlling. See, in particular, §§1.294(c), 1.298(a), and 1.773.

[28 FR 12415, Nov. 22, 1963, as amended at 33 FR 7153, May 15, 1968; 45 FR 64190, Sept. 29, 1980; 54 FR 31032, July 26, 1989; 54 FR 37682, Sept. 12, 1989; 63 FR 68919, Dec. 14, 1998]

§ 1.46 Motions for extension of time.

(a) It is the policy of the Commission that extensions of time shall not be routinely granted.

(b) Motions for extension of time in which to file responses to petitions for rulemaking, replies to such responses, comments filed in response to notice of proposed rulemaking, replies to such comments and other filings in rulemaking proceedings conducted under Subpart C of this part shall be filed at least 7 days before the filing date. If a timely motion is denied, the responses and comments, replies thereto, or other filings need not be filed until 2 business days after the Commission acts on the motion. In emergency situations, the Commission will consider a late-filed motion for a brief extension of time related to the duration of the emergency and will consider motions for acceptance of comments, reply comments or other filings made after the filing date.

(c) If a motion for extension of time in which to make filings in proceedings other than notice and comment rule making proceedings is filed less than 7 days prior to the filing day, the party filing the motion shall (in addition to serving the motion on other parties) orally notify other parties and Commission staff personnel responsible for acting on the motion that the motion has been (or is being) filed.

[39 FR 43301, Dec. 12, 1974, as amended at 41 FR 9550, Mar. 5, 1976; 41 FR 14871, Apr. 8, 1976; 42 FR 28887, June 6, 1977; 63 FR 24124, May 1, 1998]

§ 1.47 Service of documents and proof of service.

(a) Where the Commission or any person is required by statute or by the provisions of this chapter to serve any document upon any person, service shall (in the absence of specific provisions in this chapter to the contrary) be made in accordance with the provisions of this section. Documents that are required to be served by the Commission in agency proceedings (*i.e.*, not in the context of judicial proceedings, Congressional investigations, or other proceedings outside the Commission) may be served in electronic form. In proceedings involving a large number