

## § 1.271

when he has filed his Initial or Recommended Decision, or if it is a case in which he is to file no decision, when he has certified the case for decision: *Provided*, however, That he shall retain limited jurisdiction over the proceeding for the purpose of effecting certification of the transcript and corrections to the transcript, as provided in §§1.260 and 1.261, respectively, and for the purpose of ruling initially on applications for awards of fees and expenses under the Equal Access to Justice Act.

(Sec. 409, 48 Stat. 1096, as amended; 47 U.S.C. 409, 5 U.S.C. 557; secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083: 47 U.S.C. 154, 303, 307)

[28 FR 12425, Nov. 22, 1963, as amended at 41 FR 14873, Apr. 8, 1976; 47 FR 3786, Jan. 27, 1982]

### REVIEW PROCEEDINGS

#### § 1.271 Delegation of review function.

The Commission may direct, by order or rule, that its review function in a case or category of cases be performed by a commissioner, or a panel of commissioners, in which event the commissioner or panel shall exercise the authority and perform the functions which would otherwise have been performed by the Commission under §§1.273 through 1.282.

NOTE: To provide for an orderly completion of cases, exceptions and related pleadings filed after March 1, 1996, shall be directed to the Commission and will not be acted upon by the Review Board.

[62 FR 4171, Jan. 29, 1997]

#### § 1.273 Waiver of initial or recommended decision.

At the conclusion of the hearing or within 20 days thereafter, all parties to the proceeding may agree to waive an initial or recommended decision, and may request that the Commission issue a final decision or order in the case. If the Commission has directed that its review function in the case be performed by a commissioner, a panel of commissioners, the request shall be directed to the appropriate review authority. The Commission or such review authority may in its discretion grant the request, in whole or in part, if such action will best conduce to the

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proper dispatch of business and to the ends of justice.

[28 FR 12425, Nov. 22, 1963, as amended at 62 FR 4171, Jan. 29, 1997]

#### § 1.274 Certification of the record to the Commission for initial or final decision.

(a) Where the presiding officer is available to the Commission, and where the Commission finds upon the record that due and timely execution of its functions imperatively and unavoidably so requires, the Commission may direct that the record in a pending proceeding be certified to it for initial or final decision. Unless the Commission finds that due and timely execution of its functions imperatively and unavoidably requires that no recommended decision be issued, the presiding officer will prepare and file a recommended decision, which will be released with the Commission's initial or final decision.

(b) Where the presiding officer becomes unavailable to the Commission after the taking of testimony has been concluded, the Commission may direct that the record in a pending proceeding be certified to it for initial or final decision. In that event, the record shall be certified to the Commission by the Chief Administrative Law Judge.

(c)(1) Where the presiding officer becomes unavailable to the Commission after the taking of evidence has commenced but before it has been concluded, the Commission may order a rehearing before another presiding officer designated in accordance with § 1.241.

(2) Upon a finding that due and timely execution of its functions imperatively and unavoidably so requires, the Commission may (as an alternative) order that the hearing be continued by another presiding officer designated in accordance with § 1.241 or by the Commission itself. In that event, the officer continuing the hearing shall, upon completion of the hearing, certify the proceeding to the Commission for an initial or final decision. Unless the Commission finds upon the record that due and timely execution of its functions imperatively and unavoidably requires that no recommended decision be issued, the officer continuing the