

(6) Where exceptions are filed to, or the Commission reviews, an initial decision, the Commission, except as it may limit the issues upon notice or by rule, will have all the powers which it would have in making the initial decision. Whenever the Commission shall determine to review an initial decision on its own initiative, notice of such intention shall be served upon the parties.

(7) The time periods for filing exceptions and replies to exceptions, prescribed by this section, shall not apply to proceedings conducted under § 502.75.

(b)(1) If an administrative law judge has granted a motion for dismissal of the proceeding in whole or in part, any party desiring to appeal must file such appeal no later than twenty-two (22) days after service of the ruling on the motion in question.

(2) Any adverse party may file and serve a reply to an appeal under this paragraph within twenty-two (22) days after the appeal is served.

(3) The denial of a petition to intervene or withdrawal of a grant of intervention shall be deemed to be a dismissal within the meaning of this paragraph.

(c) Whenever an administrative law judge orders dismissal of a proceeding in whole or in part, such order, in the absence of appeal, shall become the order of the Commission thirty (30) days after date of service of such order (and the Secretary shall so notify the parties), unless within such 30-day period the Commission decides to review such order on its own motion, in which case notice of such intention shall be served upon the parties.

(d) The Commission shall not, on its own initiative, review any initial decision or order of dismissal unless such review is requested by an individual Commissioner. Any such request must be transmitted to the Secretary within thirty (30) days after date of service of the decision or order. Such request shall be sufficient to bring the matter before the Commission for review.

(e) All briefs and replies filed pursuant to this section shall ordinarily be limited to fifty (50) pages in length, exclusive of pages containing the table of contents, table of authorities, and certificate of service, unless the Commission

allows the parties to exceed this limit for good cause shown and upon application filed not later than five (5) days before the time fixed for filing of such a brief or reply. [Rule 227.]

[49 FR 44369, Nov. 6, 1984, as amended at 58 FR 27211, May 7, 1993; 61 FR 66617, Dec. 18, 1996; 64 FR 7810, Feb. 17, 1999]

§ 502.228 Request for enlargement of time for filing exceptions and replies thereto.

Requests for enlargement of time within which to file exceptions, and briefs in support thereof, or replies to exceptions shall conform to the applicable provisions of § 502.102. Requests for extensions of these periods will be granted only under exceptional circumstances duly demonstrated in the request. Except for good cause shown, such requests shall be filed and served not later than five (5) days before the expiration of the time fixed for the filing of such documents. Any enlargement of time granted will automatically extend by the same period the date for the filing of notice or review by the Commission. [Rule 228.]

§ 502.229 Certification of record by presiding or other officer.

The presiding or other officer shall certify and transmit the entire record to the Commission when (a) exceptions are filed or the time therefor has expired, (b) notice is given by the Commission that the initial decision will be reviewed on its own initiative, or (c) the Commission requires the case to be certified to it for initial decision. [Rule 229.]

§ 502.230 Reopening by presiding officer or Commission.

(a) *Motion to reopen.* At any time after the conclusion of a hearing in a proceeding, but before issuance by the presiding officer of a recommended or initial decision, any party to the proceeding may file with the presiding officer a motion to reopen the proceeding for the purpose of receiving additional evidence. A motion to reopen shall be served in conformity with the requirements of subpart H and shall set forth the grounds requiring reopening of the proceeding, including material changes