

CHAPTER 21. INTERCONNECTION AGREEMENTS FOR TELECOMMUNICATIONS SERVICE PROVIDERS

Subchapter B. PLEADINGS, DOCUMENTS, AND OTHER MATERIALS.

§21.41. Motions.

- (a) **General requirements.** A motion shall be in writing, unless the motion is made on the record at a prehearing conference or hearing. It shall state the relief sought and the specific grounds supporting a grant of relief. If the motion is based upon alleged facts that are not a matter of record, the motion shall be supported by an affidavit. Written motions shall be served on all parties in accordance with §21.35 of this title (relating to Service of Pleadings and Documents).
- (b) **Time for response.** Unless otherwise provided by the presiding officer, commission rule, or statute, a responsive pleading, if made, shall be filed by a party within five working days after receipt of the pleading to which the response is made.
- (c) **Rulings on motions.** The presiding officer shall serve orders ruling on motions upon all parties, unless the ruling is made on the record in a hearing or prehearing conference open to the public.
- (d) **Motions for continuances.**
 - (1) Motions for continuance and for extension of a deadline shall set forth the specific grounds for which the moving party seeks continuance and/or extension and shall reference all other motions for continuance and/or extension filed by the moving party in the proceeding. The moving party shall attempt to contact all other parties and shall state in the motion each party that was contacted and whether that party objects to the relief requested. The moving party shall have the burden of proof with respect to the need for the continuance and/or extension.
 - (2) Continuances will not be granted based on the need for discovery if the party seeking the continuance previously had the opportunity to obtain and/or compel discovery from the person from whom discovery is sought, except when necessary due to discovery abuses, surprise or discovery of facts or evidence which could not have been discovered previously through reasonably diligent effort by the moving party.
 - (3) The presiding officer may grant timely filed motions for continuance and/or extension of deadline continuances agreed to by all parties provided that any applicable statutory deadlines are extended as necessary.
- (e) **Deadlines for motions for continuance and extension of filing deadline.**
 - (1) Unless otherwise ordered by the presiding officer, motions for continuance of a prehearing conference, informal settlement conference, or discovery conference shall be in writing and shall be filed no less than two working days prior to the conference or hearing.
 - (2) Unless otherwise ordered by the presiding officer, motions for continuance of the hearing on the merits shall be in writing and shall be filed not less than three working days prior to the hearing. In addition to the requirements in subsection (e)(1) of this section, motions for continuance shall state proposed dates for a rescheduled hearing.
 - (3) Unless otherwise ordered by the presiding officer, motions for extension of a filing deadline shall be in writing and shall be filed not less than one working day prior to the filing deadline.
 - (4) Untimely motions for continuance and/or extension of a deadline shall be presumed denied. The moving party has the burden to show good cause for untimely filing.

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§21.41 continued

- (f) **Modification of discovery deadlines.**
- (1) Notwithstanding the foregoing, the deadlines for responses, objections and motions to compel may be modified by agreement of the affected parties, by filing a letter or other document evidencing the agreement no later than the date the responses, objections or motions to compel are due.
 - (2) In the event parties' agreed modification of a discovery deadline affects a scheduled discovery conference, parties must also comply with subsection (e) of this section.
 - (3) Unless the parties show good cause for untimely filing, the presiding officer may impose the original deadlines for subsequent filings.
 - (4) In no event shall the modification of discovery deadlines by agreement be allowed if such modification would affect a statutory deadline, unless parties' agreed modification is accompanied by a written waiver.