

§ 10.21

single-spaced. If printed, the documents shall be in either 10- or 12-point type with double-lead text and single-lead quotations and footnotes.

(4) *Signatures.* The original copy of all papers must be signed in ink by the person filing the same or by his duly authorized agent or attorney.

(5) *Length and form of briefs.* All briefs filed with the Proceedings Clerk containing more than ten pages shall include an index and a table of cases and other authorities cited. The date of each brief must appear on its front cover or title page and on its signature page. No brief shall exceed 60 pages in length, except with the permission of the Administrative Law Judge or, by the Commission, to whomever the brief is directed.

(6) *Documents improperly tendered for filing.* No document will be accepted unless it complies with the requirements of this paragraph concerning form, filing, subscription, service and other similar matters. A document tendered but not accepted for filing shall not be entered on the Proceedings Clerk's docket, but a motion may be made to the Administrative Law Judge for leave to file an otherwise unauthorized document.

(f) *Subscriptions—(1) By whom.* Pleadings, petitions, motions and answers thereto, briefs and other documents filed with the Commission shall be subscribed:

(i) By the person or persons on whose behalf they are tendered for filing;

(ii) By a partner, officer or director of a partnership, corporation, association, or other legal entity; or

(iii) By an attorney-at-law having authority with respect thereto.

The Proceedings Clerk may require appropriate evidence of the authority of a person subscribing a document on behalf of another person.

(2) *Effect.* The signature on a document of any person acting either for himself or as attorney or agent for another constitutes a certification by him that:

(i) He has read the document subscribed and knows the contents thereof;

(ii) If executed in any representative capacity, it was done with full power and authority to do so;

17 CFR Ch. I (4-1-01 Edition)

(iii) To the best of his knowledge, information and belief, every statement contained in the document is true and not misleading; and

(iv) The document is not being interposed for delay.

(3) *Sham documents.* If a document is not signed or is signed with an intent to defeat the purpose of this rule, it may be stricken as sham and false. For a willful violation of this rule an attorney may be subjected to appropriate disciplinary action pursuant to §10.11(b). Similar action may be taken if scandalous matter is inserted.

(g) *Official docket.* The Proceedings Clerk will maintain the official docket for each proceeding. The official docket is available for public inspection in the Commission's Office of Proceedings.

[41 FR 2511, Jan. 16, 1976, as amended at 41 FR 28260, July 9, 1976; 60 FR 54802, Oct. 26, 1995; 63 FR 55791, Oct. 19, 1998]

Subpart B—Institution of Adjudicatory Proceedings; Pleadings; Motions

§10.21 Commencement of the proceeding.

An adjudicatory proceeding is commenced when a complaint and notice of hearing is filed with the Office of Proceedings.

[63 FR 55791, Oct. 19, 1998; 63 FR 68829, Dec. 14, 1998]

§10.22 Complaint and notice of hearing.

(a) *Content.* The complaint and notice of hearing shall include:

(1) The legal authority and jurisdiction under which the hearing is held;

(2) The matters of fact and law to be considered and determined.

The complaint shall set forth the matters of fact alleged therein in such manner as will permit a specific response to each allegation. The notice shall notify the respondent of his right to a hearing and shall specify the time required by §10.23 of these rules for the filing of an answer and the consequence of failure to file an answer.

(b) *Service.* The Proceedings Clerk shall give appropriate notice to each respondent by serving them with a copy of the complaint and notice of

hearing. Service may be made in person, by confirmed telegraphic notice, or by registered mail or certified mail, addressed to the last known business or residence address of the person to be served or the address of his duly authorized agent for service. If a respondent is not found at his last known business or residence address and no forwarding address is available, additional service may be made, at the discretion of the Commission, as follows:

(1) By publishing a notice of the filing of the proceeding and a summary of the complaint, approved by the Commission or the Administrative Law Judge, once a week for three consecutive weeks in one or more newspapers having a general circulation where the respondent's last known business or residence address was located and, if ascertainable, where the respondent is believed to reside or be doing business currently; and

(2) By continuously displaying the complaint on the Commission's Internet web site during the period referred to in paragraph (b)(1) of this section.

[41 FR 2511, Jan. 16, 1976, as amended at 60 FR 54802, Oct. 26, 1995; 63 FR 55791, Oct. 19, 1998]

§ 10.23 Answer.

(a) *When required.* Following service of a complaint and notice of hearing as set forth in § 10.22 of these rules, unless otherwise specified in the notice of hearing, each respondent shall file an answer with the Proceedings Clerk within 20 days.

(b) *Content of answer.* The answer shall include:

(1) A statement that the respondent admits, denies, or does not have and is unable to obtain sufficient information to admit or deny each allegation; a statement of a lack of information shall have the effect of a denial; any allegation not expressly denied shall be deemed to be admitted;

(2) A statement of the facts supporting each affirmative defense.

(c) *Effect of failure to file answer.* A party who fails to file an answer within 20 days shall be in default and, pursuant to procedures set forth in § 10.93 of these rules, the proceeding may be determined against him by the Administrative Law Judge upon his consider-

ation of the complaint, the allegations of which shall then be deemed to be true.

(d) *Admission of all allegations of fact.* If a respondent's answer admits the truth of all the material allegations of fact contained in the complaint, it shall constitute a waiver of hearing on those allegations. However, the Administrative Law Judge may conduct a hearing, if so requested, by any of the parties. Following waiver, the parties may submit proposed findings and conclusions and briefs, as provided in § 10.82 and may appeal any initial decision to the Commission as provided in § 10.102 of these rules.

(e) *Motion for more definite statement.* Where a reasonable showing is made by a respondent that he cannot frame a responsive answer based on the allegations in the complaint, he may move for a more definite statement of the charges against him before filing an answer. A motion for a more definite statement shall be filed within ten days after service of the complaint and shall specify the defects complained of and the particular allegation as to which a more definite statement is sought.

[41 FR 2511, Jan. 16, 1976, as amended at 60 FR 54802, Oct. 26, 1995]

§ 10.24 Amendments and supplemental pleadings.

(a) *Complaint and notice of hearing.* The Commission may, at any time, amend the complaint and notice of hearing in any proceeding. If the Commission so amends the complaint and notice of hearing, the Administrative Law Judge shall adjust the scheduling of the proceeding to the extent necessary to avoid any prejudice to any of the parties to the proceeding. Upon motion to the Administrative Law Judge and with notice to all other parties and the Commission, the Division of Enforcement may amend a complaint to correct typographical and clerical errors or to make other technical, non-substantive revisions within the scope of the original complaint.

(b) *Other pleadings.* Except for the complaint and notice of hearing, a party may amend any pleading once as a matter of course at any time before a responsive pleading is served or, if the