(f) A person permitted to intervene becomes a party to the proceeding, subject to any limitations imposed pursuant to paragraph (e) of this section.

(g) Unless otherwise expressly provided in the order allowing intervention, the granting of a petition for leave to intervene does not change or enlarge the issues specified in the notice of hearing.

(h) If the Commission or the Presiding Officer determines that any of the admitted contentions constitute pure issues of law, those contentions must be decided on the basis of briefs or oral argument according to a schedule determined by the Commission or the Presiding Officer.

[54 FR 14944, Apr. 14, 1989, as amended at 56 FR 7796, Feb. 26, 1991; 63 FR 71740, Dec. 30, 1998; 66 FR 55788, Nov. 2, 2001]

§ 2.1015 Appeals.

(a) No appeals from any Pre-License Application Presiding Officer or Presiding Officer order or decision issued under this subpart are permitted, except as prescribed in paragraphs (b), (c), and (d) of this section.

(b) A notice of appeal from (1) a Pre-License Application Presiding Officer order issued pursuant to § 2.1010, (2) a Presiding Officer First or Second Prehearing Conference Order issued pursuant to § 2.1021 or § 2.1022, (3) a Presiding Officer order granting or denying a motion for summary disposition issued in accordance with § 2.1025 of this part, or (4) a Presiding Officer order granting or denying a petition to amend one or more contentions pursuant to § 2.1014(a)(4), must be filed with the Commission no later than (10) days after service of the order. A supporting brief must accompany the notice of appeal. Any other party, interested governmental participant, or potential party may file a brief in opposition to the appeal no later than ten days after service of the appeal.

(c) Appeals from a Presiding Officer initial decision or partial initial decision must be filed and briefed before the Commission in accordance with the following requirements.

(1) *Notice of appeal.* Within ten (10) days after service of an initial decision, any party may take an appeal to the Commission by filing a notice of appeal. The notice shall specify:

(i) The party taking the appeal; and

(ii) The decision being appealed.

(2) *Filing appellant's brief.* Each appellant shall file a brief supporting its position on appeal within thirty (30) days (40 days if Commission staff is the appellant) after the filing of notice required by paragraph (a) of this section.

(3) *Filing responsive brief.* Any party who is not an appellant may file a brief in support of or in opposition to the appeal within thirty (30) days after the period has expired for the filing and service of the brief of all appellants. Commission staff may file a responsive brief within forty (40) days after the period has expired for the filing and service of the briefs of all appellants. A responding party shall file a single responsive brief regardless of the number of appellants' briefs filed.

(4) *Brief content.* A brief in excess of ten (10) pages must contain a table of contents, with page references, and a table of cases (alphabetically arranged), statutes, regulations, and other authorities cited, with references to the pages of the brief where they are cited.

(i) An appellant's brief must clearly identify the errors of fact or law that are the subject of the appeal. An intervenor-appellant's brief must be confined to issues which the intervenor-appellant placed in controversy or sought to place in controversy in the proceeding. For each issue appealed, the precise portion of the record relied upon in support of the assertion of error must also be provided.

(ii) Each responsive brief must contain a reference to the precise portion of the record which supports each factual assertion made.

(5) *Brief length.* A party shall not file a brief in excess of seventy (70) pages in length, exclusive of pages containing the table of contents, table of citations and any addendum containing statutes, rules, regulations, etc. A party may request an increase of this page limit for good cause. Such a request shall be made by motion submitted at least seven (7) days before the date upon which the brief is due for filing and shall specify the enlargement requested.

(6) *Certificate of service.* All documents filed under this section must be accompanied by a certificate reflecting service upon all other parties to the proceeding.

(7) *Failure to comply.* A brief which in form or content is not in substantial compliance with the provisions of this section may be stricken, either on motion of a party or by the Commission on its own initiative.

(d) When, in the judgment of a Pre-License Application Presiding Officer or Presiding Officer, prompt appellate review of an order not immediately appealable under paragraph (b) of this section is necessary to prevent detriment to the public interest or unusual delay or expense, the Pre-License Application Presiding Officer or Presiding Officer may refer the ruling promptly to the Commission, and shall provide notice of this referral to the parties, interested governmental participants, or potential parties. The parties, interested governmental participants, or potential parties may also request that the Pre-License Application Presiding Officer or Presiding Officer certify, pursuant to §2.718(i) of this part, rulings not immediately appealable under paragraph (b) of this section.

(e) Unless otherwise ordered, the filing of an appeal, petition for review, referral, or request for certification of a ruling shall not stay the proceeding or extend the time for the performance of any act.

[56 FR 7797, Feb. 26, 1991, as amended at 56 FR 29410, June 27, 1991]

§2.1016 Motions.

(a) All motions shall be addressed to the Commission or, when a proceeding is pending before a Presiding Officer, to the Presiding Officer. All motions, unless made orally on the record, shall be filed according to the provisions of §2.1013(c) of this subpart.

(b) A motion shall state with particularity the grounds and the relief sought, and shall be accompanied by any affidavits or other evidence relied on, and, as appropriate, a proposed form of order.

(c) Within ten days after service of a motion a party, potential party, or interested governmental participant may file an answer in support of or in opposition to the motion, accompanied by affidavits or other evidence. The moving party shall have no right to reply, except as permitted by the Presiding Officer or the Secretary or the Assistant Secretary.

(d) The Presiding Officer may dispose of motions either by order or by ruling orally during the course of a prehearing conference or hearing.

(e) Where the motion in question is a motion to compel discovery under §2.720(h)(2) of this part or §2.1018(f) of this subpart, parties, potential parties, and interested governmental participants may file answers to the motion pursuant to paragraph (c) of this section. The Presiding Officer in its discretion, may order that the answer be given orally during a telephone conference or other prehearing conference, rather than filed electronically. If responses are given over the telephone the Presiding Officer shall issue a written order on the motion which summarizes the views presented by the parties, potential parties, and interested governmental participants unless the conference has been transcribed. This does not preclude the Presiding Officer from issuing a prior oral ruling on the matter which is effective at the time of its issuance, provided that the terms of the ruling are incorporated in the subsequent written order.

[54 FR 14944, Apr. 14, 1989, as amended at 56 FR 7797, Feb. 26, 1991]

§2.1017 Computation of time.

In computing any period of time, the day of the act, event, or default after which the designated period of time begins to run is not included. The last day of the period so computed is included unless it is a Saturday, Sunday, or legal holiday at the place where the action or event is to occur, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor holiday. Whenever a party, potential party, or interested governmental participant, has the right or is required to do some act within a prescribed period after the service of a notice or other document upon it, one day shall be added to the prescribed period. If the electronic docket is unavailable for more than