(2) That the ruling will result in a disclosure, before the Commission may review the Judge's report, of information that is alleged to be privileged.

(b) *Petition for interlocutory review.* Within five days following the receipt of a Judge's ruling from which review is sought, a party may file a petition for interlocutory review with the Commission. Responses to the petition, if any, shall be filed within five days following service of the petition. A copy of the petition and responses shall be filed with the Judge. The petition is denied unless granted within 30 days of the date of receipt by the Commission's Executive Secretary. A corporate party that files a petition for interlocutory review or a response to such a petition under this section shall file with the Commission a copy of its declaration of corporate parents, subsidiaries, and affiliates previously filed with the Judge under the requirements of § 2200.36(c) or § 2200.37(d)(4). In its discretion the Commission may refuse to accept for filing a petition or response that fails to comply with this disclosure requirement. A corporate party filing the declaration required by this paragraph shall have a continuing duty to advise the Executive Secretary of any changes to its declaration until the Commission either denies the petition for interlocutory appeal or issues its decision on the merits of the appeal.

(c) *Denial without prejudice.* The Commission's action in denying a petition for interlocutory review shall not preclude a party from raising an objection to the Judge's interlocutory ruling in a petition for discretionary review.

(d) *Stay*—(1) *Trade secret matters.* The filing of a petition for interlocutory review of a Judge's ruling concerning an alleged trade secret shall stay the effect of the ruling until the Commission denies the petition or rules on the merits.

(2) *Other cases.* In all other cases, the filing or granting of a petition for interlocutory review shall not stay a proceeding or the effect of a ruling unless otherwise ordered.

(e) *Judge's comments.* The Judge may be requested to provide the Commission with his written views on whether the petition is meritorious. The Judge shall serve copies of these comments on all parties when he files them with the Commission.

(f) *Briefs.* Should the Commission desire briefs on the issues raised by an interlocutory review, it shall give notice to the parties. See § 2200.93—Briefs before the Commission.

[51 FR 32015, Sept. 8, 1986, as amended at 54 FR 18491, May 1, 1989; 55 FR 22782, June 4, 1990]

§ 2200.74 Filing of briefs and proposed findings with the Judge; oral argument at the hearing.

(a) *General.* A party is entitled to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing. Any party shall be entitled, upon request made before the close of hearing, to file a brief, proposed findings of fact and conclusions of law, or both, with the Judge. In lieu of briefs, the Judge may permit or direct the parties to file memoranda or statements of authority.

(b) *Time.* Briefs shall be filed simultaneously on a date established by the Judge. A motion for extension of time for filing any brief shall be made at least three days prior to the due date and shall recite that the moving party has advised the other parties of the motion. Reply briefs shall not be allowed except by order of the Judge.

(c) *Untimely briefs.* Untimely briefs will not be accepted unless accompanied by a motion setting forth good cause for the delay.

Subpart F—Posthearing Procedures

§ 2200.90 Decisions of Judges.

(a) *Contents.* The Judge shall prepare a decision that constitutes his final disposition of the proceedings. The decision shall be in writing and shall include findings of fact, conclusions of law, and the reasons or bases for them, on all the material issues of fact, law or discretion presented on the record. The decision shall include an order affirming, modifying or vacating each contested citation item and each proposed penalty, or directing other appropriate relief. A decision finally disposing of a petition for modification of the abatement period shall contain an

order affirming or modifying the abatement period.

(b) *The Judge's report*—(1) *Mailing to parties*. The Judge shall mail or otherwise transmit a copy of his decision to each party.

(2) *Docketing of Judge's report by Executive Secretary*. On the eleventh day after the transmittal of his decision to the parties, the Judge shall file his report with the Executive Secretary for docketing. The report shall consist of the record, including the Judge's decision, any petitions for discretionary review and statements in opposition to such petitions. Promptly upon receipt of the Judge's report, the Executive Secretary shall docket the report and notify all parties of the docketing date. The date of docketing of the Judge's report is the date that the Judge's report is made for purposes of section 12(j) of the Act, 29 U.S.C. 661(j).

(3) *Correction of errors; Relief from default*. Until the Judge's report has been directed for review or, in the absence of a direction for review, until the decision has become a final order, the Judge may correct clerical errors and errors arising through oversight or inadvertence in decisions, orders or other parts of the record. If a Judge's report has been directed for review the decision may be corrected during the pendency of review with leave of the Commission. Until the Judge's report has been docketed by the Executive Secretary, the Judge may relieve a party of default or grant reinstatement under §§ 2200.101(b), 2200.52(f) or 2200.64(b).

(c) *Filing documents after the docketing date*. Except for papers filed under paragraph (b)(3) of this section, which shall be filed with the Judge, on or after the date of the docketing of the Judge's report all documents shall be filed with the Executive Secretary.

(d) *Judge's decision final unless review directed*. If no Commissioner directs review of a report on or before the thirtieth day following the date of docketing of the Judge's report, the decision of the Judge shall become a final order of the Commission.

[51 FR 32015, Sept. 8, 1986; 52 FR 13832, Apr. 27, 1987, as amended at 62 FR 35963, July 3, 1997; 70 FR 22790, May 3, 2005]

§ 2200.91 Discretionary review; petitions for discretionary review; statements in opposition to petitions.

(a) *Review discretionary*. Review by the Commission is not a right. A Commissioner may, as a matter of discretion, direct review on his own motion or on the petition of a party.

(b) *Petitions for discretionary review*. A party adversely affected or aggrieved by the decision of the Judge may seek review by the Commission by filing a petition for discretionary review. Discretionary review by the Commission may be sought by filing with the Judge a petition for discretionary review within the 10-day period provided by § 2200.90(b)(2). Review by the Commission may also be sought by filing directly with the Executive Secretary a petition for discretionary review. A petition filed directly with the Executive Secretary shall be filed within 20 days after the date of docketing of the Judge's report. The earlier a petition is filed, the more consideration it can be given. A petition for discretionary review may be conditional, and may state that review is sought only if a Commissioner were to direct review on the petition of an opposing party.

(c) *Cross-petitions for discretionary review*. Where a petition for discretionary review has been filed by one party, any other party adversely affected or aggrieved by the decision of the Judge may seek review by the Commission by filing a cross-petition for discretionary review. The cross-petition may be conditional. See paragraph (b) of this section. A cross-petition shall be filed with the Judge during the 20 days provided by § 2200.90(b) or directly with the Executive Secretary within 27 days after the date of docketing of the Judge's report. The earlier a cross-petition is filed, the more consideration it can be given.

(d) *Contents of the petition*. No particular form is required for a petition for discretionary review. A petition should state why review should be directed, including: Whether the Judge's decision raises an important question of law, policy or discretion; whether review by the Commission will resolve a question about which the Commission's