

## § 2700.72

state in such direction for review the specific issue of law, Commission policy, or novel question of policy to be reviewed. Review shall be limited to the issues specified in such direction for review.

### § 2700.72 Unreviewed decisions.

An unreviewed decision of a Judge is not a precedent binding upon the Commission.

### § 2700.73 Procedure for intervention.

After the Commission has directed a case for review, a person may move to intervene. A motion to intervene shall be filed within 30 days after the Commission's direction for review unless the Commission, for good cause shown, allows a later filing. Intervention before the Commission shall not be a matter of right but of the sound discretion of the Commission. The movant shall set forth:

(a) A legally protectible interest directly relating to the property or events that are the subject of the case on review;

(b) A showing that the disposition of the proceeding may impair or impede his ability to protect that interest;

(c) The reasons why the movant's interest is not adequately represented by parties already involved in the proceeding; and

(d) The reasons why the movant should be excused for failing to file for intervention before the Judge. A motion for intervention shall also show that the granting of the motion will not unduly delay the proceeding or prejudice any party and shall explain why the movant's participation as an amicus curiae would be inadequate. If the Commission permits intervention, the Commission's order shall specify the time within which the intervenor's brief and any response or reply may be filed. In denying a motion to intervene, the Commission may alternatively permit the movant to participate in the proceeding as amicus curiae.

### § 2700.74 Procedure for participation as amicus curiae.

(a) After the Commission has directed a case for review, any person may move to participate as amicus curiae. Such participation before the

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Commission shall not be a matter of right but of the sound discretion of the Commission. A motion for participation as amicus curiae shall set forth the interest of the movant and show that the granting of the motion will not unduly delay the proceeding or prejudice any party. The movant may conditionally attach its brief to its motion for participation as amicus curiae.

(b) The brief of an amicus curiae shall be filed within the initial briefing period (*see* § 2700.75(a)(1)) allotted to the party whose position the amicus curiae supports.

(c) In the interest of avoiding duplication of argument, however, the Commission may permit the filing of an amicus curiae brief within 20 days after the close of the briefing period set forth in § 2700.75(a)(1), provided that the amicus curiae's motion for participation as an amicus curiae is filed within the initial briefing period (*see* § 2700.75(a)(1)) allotted to the party whose position the amicus curiae supports. If the Commission grants any such motion, the Commission's order shall specify the time within which a response or reply may be made to the amicus curiae brief.

[58 FR 12164, Mar. 3, 1993, as amended at 64 FR 48714, Sept. 8, 1999]

### § 2700.75 Briefs.

(a) *Time to file*—(1) *Opening and response briefs*. Within 30 days after the Commission grants a petition for discretionary review, the petitioner shall file his opening brief. If the petitioner desires, he may notify the Commission and all other parties within the 30-day period that his petition and any supporting memorandum are to constitute his brief. Other parties may file response briefs within 30 days after the petitioner's brief is served. If the Commission directs review on its own motion, all parties shall file any opening briefs within 30 days of the direction for review. In such cases, a party may file a response brief within 20 days after service of the opposing party's opening brief.

(2) *Reply briefs*. In cases where the Commission has granted a petition for discretionary review, the petitioner may file a reply brief within 20 days after the service of the response briefs.