

§ 1025.53

§ 1025.53 Appeal from initial decision.

(a) *Who may file notice of intention.* Any party may appeal an Initial Decision to the Commission, provided that within ten (10) days after issuance of the Initial Decision such party files and serves a notice of intention to appeal.

(b) *Appeal brief.* An appeal is perfected by filing a brief within forty (40) days after service of the Initial Decision. The appeal brief must be served upon all parties. The appeal brief shall contain, in the order indicated, the following:

(1) A subject index of the matters in the brief, with page references, and a table of cases (alphabetically arranged), textbooks, statutes, and other material cited, with page references thereto;

(2) A concise statement of the case;

(3) A statement containing the reasons why the party believes the Initial Decision is incorrect;

(4) The argument, presenting clearly the points of fact and law relied upon to support each reason why the Initial Decision is incorrect, with specific page references to the record and the legal or other material relied upon; and

(5) A proposed form of order for the Commission's consideration in lieu of the order contained in the Initial Decision.

(c) *Answering brief.* Within thirty (30) days after service of the appeal brief upon all parties, any party may file an answering brief which shall contain a subject index, with page references, and a table of cases (alphabetically arranged), textbooks, statutes, and other material cited, with page references thereto. Such brief shall present clearly the points of fact and law relied upon in support of the reasons the party has for each position urged, with specific page references to the record and legal or other materials relied upon.

(d) *Participant's brief.* Within thirty (30) days after service of the appeal brief upon all parties, any participant may file a brief on appeal, presenting clearly the position urged.

(e) *Cross appeal.* If a timely notice of appeal is filed by a party, any other party may file a notice of cross appeal within ten (10) days of the date on

which the first notice of appeal was filed. Cross appeals shall be included in the answering brief and shall conform to the requirements for form, content, and filing specified in paragraph (b) of this section for an appeal brief. If an appeal is noticed but not perfected, no cross appeal shall be permitted and the notice of cross appeal shall be deemed void.

(f) *Reply brief.* A reply brief shall be limited to rebuttal of matters presented in answering briefs, including matters raised in cross-appeals. A reply brief shall be filed and served within fourteen (14) days after service of an answering brief, or on the day preceding the oral argument, whichever comes first.

(g) *Oral argument.* The purpose of an oral argument is to emphasize and clarify the issues. The Commission may order oral argument upon request of any party or upon its own initiative. A transcript of oral arguments shall be prepared. A Commissioner absent from an oral argument may participate in the consideration of and decision on the appeal.

§ 1025.54 Review of initial decision in absence of appeal.

The Commission may, by order, review a case not otherwise appealed by a party. Should the Commission so order, the parties shall, and participants may, file briefs in accordance with § 1025.53, except that the Commission may, in its discretion, establish a different briefing schedule in its order. The Commission shall issue its order within forty (40) days after issuance of the Initial Decision. The order shall set forth the issues which the Commission will review and may make provision for the filing of briefs. If the filing of briefs is scheduled by the Commission, the order shall designate which party or parties shall file the initial brief and which party or parties may thereafter file an answering brief, or the order may designate the simultaneous filing of briefs by the parties.

§ 1025.55 Final decision on appeal or review.

(a) *Consideration of record.* Upon appeal from or review of an Initial Decision, the Commission shall consider