

§ 3001.34

have the power to rule upon procedural matters or the competency, materiality, or relevancy of questions. Procedural objections or objections to questions of evidence shall be stated briefly and recorded in the deposition without argument. Objections not stated before the officer shall be deemed waived.

(h) *When a part of the record.* No portion of a deposition shall constitute a part of the record in the proceeding unless received in evidence by the presiding officer. If only a portion of the deposition is offered in evidence by a participant, any other participant may require him/her to introduce all of it which is relevant to the part introduced, and any participant may offer in evidence any other portions.

(i) *Fees.* Witnesses whose depositions are taken and the officer taking the same shall be entitled to the same fees as are paid for like services in the District Courts of the United States to be paid directly by the participant or participants on whose application the deposition was taken.

[36 FR 396, Jan. 12, 1971, as amended at 58 FR 38976, July 21, 1993; 58 FR 38976, July 21, 1993]

§ 3001.34 Briefs.

(a) *When filed.* At the close of the taking of testimony in any proceeding, the Commission or the presiding officer shall fix the time for the filing and service of briefs, giving due regard to the timely issuance of a recommended decision or advisory opinion to the Postal Service within the contemplation of sections 3641(a) and 3661 of the Act. In addition, subject to such consideration, due regard shall be given to the nature of the proceeding, the complexity and importance of the issues involved, and the magnitude of the record. In cases subject to a limitation on the time available to the Commission for decision, the Commission shall generally direct that each participant shall file a single brief at the same time. In cases where, because of the nature of the issues and the record or the limited number of participants involved, the filing of initial and reply briefs, or the filing of initial, answering, and reply briefs, will not unduly delay the conclusion of the proceeding and will aid in the proper disposition of the proceeding, the participants may

39 CFR Ch. III (7-1-07 Edition)

be directed to file more than one brief and at different times rather than a single brief at the same time. The presiding officer or the Commission may also order the filing of briefs during the course of the proceeding.

(b) *Contents.* Each brief filed with the Commission shall be as concise as possible, within any page limitation specified by the Commission or the presiding officer, and shall include the following in the order indicated:

(1) A subject index with page references, and a list of all cases and authorities relied upon, arranged alphabetically, with references to the pages where the citation appears;

(2) A concise statement of the case from the viewpoint of the filing participant;

(3) A clear, concise and definitive statement of the position of the filing participant as to the proposals of the Postal Service, the subject matter of the complaint, or recommended decision, advisory opinion, or public report to be issued;

(4) A discussion of the evidence, reasons, and authorities relied upon with exact references to the record and the authorities; and

(5) Proposed findings and conclusions with appropriate references to the record or the prior discussion of the evidence and authorities relied upon.

(c) *Incorporation by references.* Briefs before the Commission or a presiding officer shall be completely self-contained and shall not incorporate by reference any portion of any other brief, pleading or document.

(d) *Excerpts from the record.* Testimony and exhibits shall not be quoted or included in briefs except for short excerpts pertinent to the argument presented.

(e) *Filing and service.* Briefs shall be filed in the form and manner and served as required by §§ 3001.9 to 3001.12.

[36 FR 396, Jan. 12, 1971, as amended at 38 FR 4328, Feb. 13, 1973; 51 FR 8827, Mar. 14, 1986]

§ 3001.35 Proposed findings and conclusions.

The Commission or the presiding officer may direct the filing of proposed findings and conclusions with a brief