

Federal Communications Commission

§ 1.101

contest the validity of the consent order;

(4) A statement that the designation order may be used in construing the consent order;

(5) A statement that the agreement shall become a part of the record of the proceeding only if the consent order is signed by the presiding officer and the time for review has passed without rejection of the order by the Commission;

(6) A statement that the agreement is for purposes of settlement only and that its signing does not constitute an admission by any party of any violation of law, rules or policy (see 18 U.S.C. 6002); and

(7) A draft order for signature of the presiding officer resolving by consent, and for the future, all issues specified in the designation order.

(d) If agreement is reached, it shall be submitted to the presiding officer or Chief Administrative Law Judge, as the case may be, who shall either sign the order, reject the agreement, or suggest to the parties that negotiations continue on such portion of the agreement as he considers unsatisfactory or on matters not reached in the agreement. If he rejects the agreement, the hearing shall proceed. If he suggests further negotiations, the hearing will proceed or negotiations will continue, depending on the wishes of parties to the agreement. If he signs the consent order, he shall close the record.

(e) Any party to the proceeding who has not joined in any agreement which is reached may appeal the consent order under § 1.302, and the Commission may review the agreement on its own motion under the provisions of that section. If the Commission rejects the consent order, the proceeding will be remanded for further proceedings. If the Commission does not reject the consent order, it shall be entered in the record as a final order and is subject to judicial review on the initiative only of parties to the proceeding who did not join in the agreement. The Commission may revise the agreement and consent order. In that event, private parties to the agreement may either accept the revision or withdraw from the agreement. If the party whose possible violations are issues in the proceeding withdraws from the agreement, the consent

order will not be issued or made a part of the record, and the proceeding will be remanded for further proceedings.

(f) The provisions of this section shall not alter any existing procedure for informal settlement of any matter prior to designation for hearing (see, e.g., 47 U.S.C. 208) or for summary decision after designation for hearing.

(g) Consent orders, pleadings relating thereto, and Commission orders with respect thereto shall be served on parties to the proceeding. Public notice will be given of orders issued by an administrative law judge, the Chief Administrative Law Judge, or the Commission. Negotiating papers constitute work product, are available to parties participating in negotiations, but are not routinely available for public inspection.

[41 FR 14871, Apr. 8, 1976]

§ 1.95 Violation of consent orders.

Violation of a consent order shall subject the consenting party to any and all sanctions which could have been imposed in the proceeding resulting in the consent order if all of the issues in that proceeding had been decided against the consenting party and to any further sanctions for violation noted as agreed upon in the consent order. The Commission shall have the burden of showing that the consent order has been violated in some (but not in every) respect. Violation of the consent order and the sanctions to be imposed shall be the only issues considered in a proceeding concerning such an alleged violation.

[41 FR 14871, Apr. 8, 1976]

RECONSIDERATION AND REVIEW OF ACTIONS TAKEN BY THE COMMISSION AND PURSUANT TO DELEGATED AUTHORITY; EFFECTIVE DATES AND FINALITY DATES OF ACTIONS

§ 1.101 General provisions.

Under section 5(c) of the Communications Act of 1934, as amended, the Commission is authorized, by rule or order, to delegate certain of its functions to a panel of commissioners, an individual commissioner, an employee board, or an individual employee. Section