

## 220 CMR: DEPARTMENT OF PUBLIC UTILITIES

### 1.11: Rulings, Briefs, Oral Argument and Post-Hearing Procedure

- (1) Request for Rulings. Within the time designated for the filing of briefs pursuant to 220 CMR 1.11(3), any party may file requests for rulings in accordance with the provisions of M.G.L. c. 25, § 5.
- (2) Oral Argument, When Made. When, in the opinion of the presiding officer, time permits and the nature of the proceedings, the complexity or importance of the issues of fact or law involved, and the motion or at the request of a party or staff counsel at or before the close of the taking of testimony, allow and fix a time for the presentation of oral argument, imposing such limits of time on the argument as deemed appropriate in the proceeding. Such argument shall be transcribed and bound with the transcript of testimony.
- (3) Briefs. Briefs may be filed by a party either before or during the course of a hearing, or within such time thereafter as the presiding officer shall designate. Failure to file a brief shall in no way prejudice the rights of any party. The order of filing briefs after the hearing, including reply briefs, will be designated by the presiding officer.
- (4) Contents and Scope of Brief; Proposed Findings and Order. Briefs may contain:
  - (a) A concise statement of the case,
  - (b) An abstract of the evidence relied upon by the party filing, with reference to the pages of record or exhibits where the evidence appears,
  - (c) Argument and authorities, and
  - (d) Proposed findings and conclusions and, if desired, a proposed form of order or rule.
- (5) Briefs, Form of. Exhibits should not be reproduced in the brief, but may, if desired, be reproduced in an appendix to the brief. Any analyses of exhibits relied on should be included in the part of the brief containing the abstract of evidence under the subjects to which they pertain. Every brief of more than 20 pages shall contain a subject index, with page references, and a list of all cases cited, alphabetically arranged, with reference to the pages where the citations appear. All briefs shall be as concise as possible and shall in all other respects conform to the requirements of 220 CMR 1.02(9).
- (6) Briefs, Filing and Service. Briefs not filed and served on or before the dates fixed therefor shall not be accepted for filing. All briefs shall be accompanied by a certificate showing service upon all parties and persons who have been allowed to cross-examine and present evidence, and except where filing of a different number is permitted or directed by the presiding officer, nine copies of each brief shall be served on the Department in addition to the brief served on it pursuant to 220 CMR 1.02(8)(a) and 1.05. Requests for an extension of time in which to file briefs shall conform to the requirements of 220 CMR 1.02(5) and shall be filed before the time fixed for filing such briefs.
- (7) Filing of Documents Subsequent to Hearing. The Department may, for good cause shown, allow the parties to file evidentiary documents of any kind, or exhibits, at a time subsequent to the completion of hearing, such time to be determined by the Commission. If a request for such subsequent filing is granted, the requesting party shall on or before the date set for

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filing, send copies of all documents or exhibits which are the subject of the request to all parties and persons who have filed appearances. If such requirement for copies is impracticable, the Department may suspend the provision; in such cases, the Department shall allow reasonable inspection of the original by all parties.

- (8) Reopening Hearings. No person may present additional evidence after having rested nor may any hearing be reopened after having been closed, except upon motion and showing of good cause. Such motions shall be filed in accordance with the provisions of 220 CMR 1.04(5). The Department shall notify all parties of its action upon the motion. Notwithstanding the above, the Department may, at any time prior to the rendering of a decision, reopen the hearing on its own motion. In case of such reopening on motion of the Department, the parties shall be notified and the hearing shall not be convened less than five days after the sending of such notice.
- (9) Motion for Recalculation. No later than 20 days after service of a final Department Order, a party may file a motion for recalculation based on an alleged inadvertent error in a calculation contained in a final Department Order. The motion shall set forth in detail the proposed adjustments and the basis for the changes. The Department may, in its discretion, convene a conference or hearing to discuss the motion. The Department must act upon a motion for recalculation within 60 days of receipt of such motion unless it notifies the parties in writing that a longer period of time will be required and specifies the additional length of time necessary to consider the motion.
- (10) Motion for Reconsideration. No later than 20 days after service of a final Department Order, a party may file a motion for reconsideration. Parties to the proceeding shall be afforded a reasonable opportunity to respond to a motion for reconsideration.
- (11) Extension of Judicial Appeal Period. In accordance with M.G.L. c. 25, § 5, judicial appeals from final Department Orders must be filed within 20 days after service of the Order. Upon motion to the Department within the 20-day period, a party may request an extension of the appeal period. Reasonable extensions shall be granted upon a showing of good cause.