

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

1.02: General Provisions

- (1) Office. The principal office of the Department is One South Station, 2nd Floor, Boston, Massachusetts. The office of the Department shall be open from 8:45 A.M. to 5:00 P.M. each weekday except Saturdays, Sundays and legal holidays.
- (2) Date of Receipt.
 - (a) By the Department. All communications, including correspondence, motions and pleading, shall be deemed to be filed or received on the date on which they are received by the Department at its principal office.
 - (b) By parties and other persons. All communications, including correspondence, motions and pleading, shall be deemed to be filed or received on the date on which they are deposited in the United States mail, properly addressed and postage paid, or delivered in person to a party or other person.
- (3) Identification. Communications should concern but one matter, should contain the name and address of the communicator and the appropriate certificate or permit number, if there be any pertaining to the subject of the communication. When the subject matter pertains to a pending docket, the title of the proceeding and the docket number should be given.
- (4) Computation of Time. Computation of any period of time referred to in 220 CMR 1.00 shall begin with the first day following that on which the act which initiates such period of time occurs. The last day of the period so computed is to be included unless it is a day on which the office of the Department is closed, in which event the period shall run until the end of the next following business day. When such period of time, with the intervening Saturdays, Sundays and legal holidays counted, is five days or less, the said Saturdays, Sundays and legal holidays shall be excluded from the computation; otherwise, such days shall be included in the computation.
- (5) Extensions of Time. In the discretion of the Commission or the presiding officer, for good cause shown, any time limit prescribed or allowed by 220 CMR 1.00 may be extended. All requests for extensions shall be made by motion in accordance with 220 CMR 1.0(5), and shall be made before the expiration of the period originally prescribed or as previously extended. The Secretary of the Commission shall notify all parties of the Commission's action upon the motion.
- (6) Signatures. Every application, notice, pleading, petition, complaint, motion, brief and memorandum shall be signed by the filing party or by one or more attorneys, in their individual names on behalf of the filing party.
- (7) Appearances. An appearance shall be made in any proceeding by filing a written notice thereof and serving a copy on all persons who have theretofore appeared. (220 CMR 1.15(1)).

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- (8) Formal Requirements as to Pleading, Documents and Other Papers Filed in Proceedings.
- (a) Copies. Except as may be otherwise required by the rules or regulations of the Department, or ordered or requested by the Department, at the time pleading, documents, or other papers are filed with the Department, there shall be furnished to the Department an original of such papers.
 - (b) Form. Except for the forms contained or referred to in 220 CMR 1.15, and such other forms as may from time to time be provided by the Department, which shall be used where appropriate, pleading, documents or other papers filed in proceedings shall be printed or typewritten on paper cut or folded to either letter or legal size, eight to 8½ inches wide by 10½ to 14 inches long, with left-hand margin not less than 1½ inches wide and other margins not less than one inch. The impression shall be on only one side of the paper, unless printed, and shall be double spaced, except that quotations in excess of a few lines shall be single spaced and indented. Mimeographed, multigraphed, photoduplicated or the like copies will be accepted as typewritten, provided all copies are clear and permanently legible.
 - (c) Filing. All pleading, documents or papers relating to matters requiring action by the Commission shall be filed with the Secretary of the Department, One South Station, 2nd Floor, Boston, Massachusetts 02110.

(9) Ex Parte Communications in Adjudicatory Proceedings

- (a) From the initial filing in an adjudicatory proceeding until the rendering of a final decision, a Commissioner, presiding officer, or staff member of the Department may not communicate with a party or interested person about any substantive issue of fact, law, or policy except upon reasonable notice and opportunity for all parties to participate.
- (b) Communications not prohibited by 220 CMR 1.02(9)(a) include:
 - 1. Communications concerning scheduling, administrative, and other procedural matters; and
 - 2. Communications between a party and assigned settlement intervention staff for the purpose of producing a settlement, or communications between a party and staff assigned to conduct alternative dispute resolution or mediation proceedings.
- (c) If a person makes or attempts to make an *ex parte* communication prohibited by 220 CMR 1.02(9)(a), the Commissioner, presiding officer, or staff member shall advise the person that the communication is prohibited and shall immediately terminate the prohibited communication.
- (d) If a Commissioner, presiding officer, or staff member violates the *ex parte* rule, he or she shall, no later than two business days after determining that the communication was prohibited, serve on each party and place in the docket file the following:
 - 1. A written statement including the substance and circumstances surrounding the communication; the identity of each person who participated in the communication; the time, date, and duration of the communication; and whether, in his or her opinion, the receipt of the *ex parte* communication disqualifies him or her from further participation in the adjudicatory proceeding; and

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2. Any written or electronic documentation of the communication. The above documents to be placed in the docket file shall not be made a part of the evidentiary record.
- (e) The Department may, upon the motion of any party or on its own motion, accept or require the submission of additional evidence of the substance of a communication prohibited by 220 CMR 1.02(9)(a).
 - (f) Upon receipt of a communication made or caused to be made by a party in violation of 220 CMR 1.02(9)(a), the Department may, to the extent consistent with the interests of justice, require the party to show cause why his or her claim or interest in the adjudicatory proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.
 - (g) Where a party has violated this rule, the Department or presiding officer may take such action as is deemed appropriate within the circumstances.