211 CMR 101.00: PROCEDURES CONCERNING RATE FILINGS MADE PURSUANT TO M.G.L. C. 175C AND THE CONDUCT OF HEARINGS ON SUCH FILINGS

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101.01: Purpose, Scope and Authority

211 CMR 101.00, promulgated pursuant to M.G.L. c. 175C, § 5 and M.G.L. c. 175, c. 174A and c. 175A governs the form and content of Rate Filings made pursuant to M.G.L. c. 175C, and the conduct of all Proceedings, including hearings, relating to the review of such Rate Filings.

101.02: Definitions

As used in 211 CMR 101.00, the following words mean:

Commissioner: The Commissioner of Insurance appointed pursuant to M.G.L. c. 26, § 6, or his or her designee.

Division: The Division of Insurance, established pursuant to M.G.L. c. 26, §1.

Filing Party: An Insurer or rating organization that makes a Rate Filing.

Insurer: The Massachusetts Property Insurance Underwriting Association ("MPIUA") or any successor corporation, association, partnership, group or other person organized pursuant to M.G.L. c. 175C to offer basic property or multi-peril insurance.

Interested Party: Any person, agency or organization, other than the State Rating Bureau or the Attorney General, which has been granted permission to intervene or to participate in a proceeding.

Oral Statement: A statement of position made during a hearing, with the permission of the Presiding Officer, by any person who is not an Interested Party.

Papers: All written documents filed in a proceeding, including Rate Filings, Responsive Filings, motions, pleadings, briefs, memoranda and other communications.

Party: An Insurer or rating organization submitting a Rate Filing, the State Rating Bureau, Statutory Intervenors and Interested Parties which the Presiding Officer has allowed to intervene in the Proceeding. An Interested Party which has been allowed to participate but not to intervene in the Proceeding shall not be considered a Party to the Proceeding.

Presiding Officer: The Commissioner, or any person or persons designated by the Commissioner, who conducts hearings and related proceedings on Rate Filings made pursuant to M.G.L. c. 175C.

101.02: continued

Proceeding: A hearing and related procedural matters, conducted under 211 CMR 101.00, to consider the Commissioner's approval of proposed modifications to manuals of classifications of risks, rates or rules for insurance offered pursuant to M.G.L. c. 175C. A Proceeding starts when a Rate Filing is made with the Commissioner unless the Commissioner, in his or her discretion, determines that the request seeks a minor modification to such manuals and requires no Proceeding under 211 CMR 101.00.

Rate Filing: Documents filed with the Commissioner by a Filing Party, pursuant to M.G.L. c. 175C, § 5, requesting approval of modification of its manuals of classifications, rates, or rules.

Rating Organization: An organization established pursuant to M.G.L. c. 175C, § 4.

Responsive Filing: Any recommendations, including supporting information or commentary, concerning a Rate Filing, or any portion thereof, filed in accordance with 211 CMR 101.05.

State Rating Bureau: The State Rating Bureau within the Division, established pursuant to M.G.L. c. 26, § 8E.

Statutory Intervenor: Any person, agency or organization including, but not limited to, the Attorney General, which has a statutory right to appear in any hearing conducted pursuant to 211 CMR 101.00.

101.03: General Provisions

(1) Filings. A Rate Filing and all papers relating to it shall be filed at the Division's principal office during regular business hours, addressed to the Docket Clerk, Hearings and Appeals. A Filing Party shall submit ten copies of its Rate Filing to the Division. At least one of the ten copies must be submitted in an unbound format. The Filing Party shall contemporaneously serve one copy of the Rate Filing on the State Rating Bureau, each Statutory Intervenor and each Interested Party that participated in the Filing Party's last rate Proceeding. The Filing Party shall also serve a copy of the Rate Filing on any other Interested Party which is granted permission to participate in the Proceeding. The Presiding Officer may order a party to file, in addition to the paper copies, an electronic copy of a document in a prescribed format. The Presiding Officer shall determine how many copies of other Papers shall be filed.

(2) Service of Papers. Any Party or participant filing Papers in a Proceeding shall serve a copy thereof on other Parties or participants by hand delivery or by United States mail, postage prepaid, sent to the address of record in the Proceeding. Failure to comply with 211 CMR 101.03 shall be grounds for refusal by the Division to accept Papers for filing. All Papers filed in a Proceeding shall include a certificate of service.

(3) Timely Filing. Papers filed in a Proceeding must be filed at the Division's principal office within the specified time limits. The date of filing shall be determined as follows:

(a) Papers hand-delivered during regular business hours shall be deemed filed on that day.

(b) Papers hand-delivered at other times shall be deemed filed on the next regular business day, unless otherwise ordered by the Presiding Officer.

(c) Papers mailed to the Division's principal office shall be deemed filed on the day the Division receives them.

(4) Computation of Time. Computation of any period of time referred to in 211 CMR 101.00 shall begin with the first day after the date of the initiating act. The last day of the period so computed is to be included unless it is a day when the principal office of the Division is closed, in which case the period shall run until the end of the next business day. When the time period is five days or fewer, Saturdays, Sundays and legal holidays shall be excluded from the computation.

101.03: continued

(5) Extensions of Time. The Presiding Officer, for good cause shown, in his or her discretion, may modify any time limit prescribed or allowed by 211 CMR 101.00. All requests for extensions shall be made by motion before the expiration of the period originally prescribed or as previously modified.

(6) Signatures. All papers shall be signed by the filing Party, its authorized representative or its counsel.

(7) Appearances. Parties appearing in a Proceeding, other than the State Rating Bureau, shall file a written notice of appearance with the Division and shall serve a copy on all persons who have previously appeared in the Proceeding. A Statutory Intervenor shall file a notice of appearance no more than ten days after publication of a hearing notice regarding a Rate Filing.

101.04: Rate Filings

(1) Purpose. The purpose of the Rate Filing is to furnish sufficient evidence to enable the Commissioner to establish that the rates requested comply with the statutory requirements and fall within a range of reasonableness. The Rate Filing shall constitute the direct case of the Filing Party in support of its requested rates.

(2) Filing Requirements.

(a) Format. The Commissioner may prescribe the form of the Rate Filing as he or she shall consider proper, expedient or necessary. The Filing Party shall use any forms that the Commissioner prescribes.

All Rate Filings must be numbered sequentially from the first through the last page, using Arabic numerals at the bottom right of each page. Any internal numbers applied to separate parts or sections of Rate Filings must be located elsewhere on the page. The Presiding Officer may reject any Rate Filing that does not comply with the mandatory numbering requirement.

(b) Content. Every Rate Filing shall contain the following information:

1. a title which indicates the nature of the Proceeding.
2. the complete name and address of the Filing Party and the name, address, electronic mail address, and telephone numbers, including FAX numbers, of every authorized representative or counsel, if any, representing the Filing Party.
3. an executive summary describing, in narrative form, each element of the Rate Filing and the reasons for the rate request.
4. all material, including all data, statistics, schedules and exhibits, which the Filing Party wishes to be considered in the Proceeding and all information upon which it bases its recommendations. A Rate Filing that seeks approval of rates for multiple policy forms but supports its requests with materials that it relies on, in common, for each such form may structure its Rate Filing so as to minimize the amount of duplication in the filing. However, the Rate Filing must clearly identify and separate material that relates to all proposed rates from material that applies to only one or some of the proposed rates.
5. narrative statements including all information and commentary necessary to substantiate and explain the Filing Party's recommendations.
6. the direct sworn written testimony of all witnesses for the Filing Party. The direct sworn written testimony shall support every element of the Rate Filing and may be presented in a question and answer format.

(3) Supplemental Information. The Presiding Officer may require any Filing Party to furnish any additional data or information which the Presiding Officer determines to be necessary or appropriate in connection with the submission of any Rate Filing. Except as permitted or requested by the Presiding Officer, or in accordance with 211 CMR 101.09, no additions, amendments, or corrections to the Rate Filing shall be allowed.

(4) Rejection of Rate Filings. The Presiding Officer may reject any Rate Filing if he or she determines that the Filing Party has not complied with applicable laws or the procedures and forms prescribed by 211 CMR 101.00. Such rejection shall terminate a Proceeding unless the Presiding Officer, in his or her discretion, allows a Filing Party whose Rate Filing has been rejected to resubmit such Rate Filing, with appropriate modifications, in the same Proceeding within a time period prescribed by the Presiding Officer.

101.04: continued

(5) Consolidation of Rate Filings for Purposes of Hearing. If the Presiding Officer determines that two or more Proceedings have been initiated regarding Rate Filings which are similar in scope and subject matter, the Presiding Officer may, in his or her discretion, consolidate such Proceedings for the purposes of hearing.

(6) Relitigation of Facts or Issues and Proposals to Alter Methodologies. The Presiding Officer may rely, as appropriate, on previous decisions on rates filed pursuant to M.G.L. c. 175C, § 5 as precedent and, in the absence of significant new evidence or other good cause, may preclude the Parties from relitigating facts or issues, including methodological issues, decided in previous decisions. All Rate Filings shall state with specificity each aspect of a methodology used in the most recent contested Proceeding which the Filing Party recommends not be used in the current Proceeding and shall state with specificity the recommended alternative methodology.

(7) Withdrawal of Rate Filings. A Filing Party may not withdraw a Rate Filing without the permission of the Presiding Officer.

101.05: Responsive Filings

(1) Purpose. The purpose of a Responsive Filing is to identify the grounds upon which the Party submitting it supports or contests the Rate Filing. To the extent that the Responsive Filing contains direct testimony and evidence, it constitutes the direct case of the Party submitting the Responsive Filing.

(2) Times for Submitting Responsive Filings. The State Rating Bureau's Responsive Filing, if any, shall be submitted no later than 14 days after the conclusion of the cross-examination of witnesses whose direct testimony is included in a Rate Filing. Responsive Filings, if any, from Statutory Intervenors shall be submitted no later than 12 days after the conclusion of the cross-examination of witnesses whose direct testimony is included in a Rate Filing. A petitioner which has been allowed to intervene shall submit its Responsive Filing, if any, ten days after the conclusion of the cross-examination of witnesses whose direct testimony is included in a Rate Filing.

(3) Filing Requirements.

(a) Format.

1. Any Party making a Responsive Filing shall submit five copies to the Division, unless the Presiding Officer directs otherwise, and shall serve copies on the Filing Party, the State Rating Bureau, Statutory Intervenors and Interested Parties. At least one copy of a Responsive Filing must be submitted to the Division in an unbound format.

2. The Commissioner may prescribe the form of the Responsive Filing and may make changes to the form from time to time as he or she shall consider proper, expedient or necessary. A Party making a Responsive Filing shall use any form that the Commissioner prescribes.

3. All Responsive Filings must be numbered sequentially from the first through the last page, using Arabic numerals at the bottom center of each page. Any internal numbers applied to separate parts or sections of Responsive Filings must be located elsewhere on the page. The Presiding Officer may reject any Responsive Filing that does not comply with the mandatory numbering requirement.

(b) Content. Each Responsive Filing shall contain the following information:

1. A descriptive title, the complete name and address of the entity submitting the Responsive Filing and the name, address, electronic mail address, and telephone numbers, including FAX numbers, of every authorized representative or counsel, if any, representing that Party.

2. Each Responsive Filing shall fully raise all issues the Party making the filing is presenting for consideration at the hearing, and shall include complete narrative statements and information necessary to explain those issues, all data, statistics, schedules and exhibits necessary to substantiate the Party's recommendations, and the direct written sworn testimony of any witness offered by that Party. A Responsive Filing must clearly indicate and separate material that relates to all proposed rates from material that applies to only one or some of the proposed rates.

101.05: continued

(4) Supplemental Information. The Presiding Officer may require any Party submitting a Responsive Filing to furnish any additional data or information which the Presiding Officer determines to be necessary or appropriate in connection with the submission of any Responsive Filing. Except as permitted or requested by the Presiding Officer, or in accordance with 211 CMR 101.00, no additions, amendments, or corrections to the Responsive Filing shall be allowed.

(5) Rejection of Responsive Filings. The Presiding Officer may reject any Responsive Filing if he or she determines that it does not comply with applicable law or the procedures and format prescribed by 211 CMR 101.00.

(6) Consolidation of Presentations on Responsive Filings. If the Presiding Officer determines that two or more Parties have submitted Responsive Filings which are similar in scope, he or she may, in his or her discretion, require those Parties to consolidate their presentations.

(7) Withdrawal of Responsive Filings. A Party making a Responsive Filing may not withdraw its filing without the permission of the Presiding Officer.

101.06: Hearing Notice

The Commissioner shall prepare a hearing notice. The Filing Party shall arrange and pay for publication of the hearing notice at least 21 days before the date scheduled for an initial hearing in a Proceeding in at least one newspaper of general circulation in the Commonwealth. The Filing Party shall file with the Division proof of publication within 21 days of publication. The Presiding Officer may require additional evidence of compliance with 211 CMR 101.06. The Commissioner shall concurrently give notice of the Proceeding to the State Rating Bureau, the Attorney General and to any person who has filed a written request with the Division to receive notice of such Proceedings. The hearing notice shall contain:

(a) a reference to the statutory authority under which the Proceeding is held;
(b) the date, time and location of the initial hearing;
(c) a brief statement of the subjects and issues involved in the Proceeding;
(d) a brief statement of dates and procedures for submitting notices of appearance by Statutory Intervenors, petitions to appear as intervenors or participants, and notices of appearances of counsel;
(e) a brief statement of the dates and procedures for making oral statements at the initial hearing in the Proceeding.

101.07: Intervention and Participation

(1) No more than four days after publication of a hearing notice pursuant to 211 CMR 101.06, any person, agency or organization, other than the State Rating Bureau, Statutory Intervenors, or the Filing Party, that wishes to appear and present testimony at the hearing, may file a petition for leave to intervene or to participate. The petition shall include the full name and address of the petitioner and its telephone and FAX numbers, and shall set forth with particularity any statutory or other authority for the petition, the manner in which the petitioner is substantially and specifically affected by the Proceeding, the grounds for seeking such leave, and the relief sought by the petitioner. The petition shall be filed in accordance with 211 CMR 101.03 and served on the Filing Party, the State Rating Bureau, and any Statutory Intervenor which has appeared in the most recent hearing on MPIUA rates.

(2) The Filing Party, Statutory Intervenors and the State Rating Bureau may file responses to a petition within five days after the petition is filed, or within such other time as the Presiding Officer may designate.

(3) The Presiding Officer may hold a hearing on the petition and shall issue a decision on the petition within ten days of concluding such hearing.

(a) Intervenors. The Presiding Officer may permit a person who is likely to be substantially and specifically affected by the Proceeding to intervene. Such person shall have all the rights of a Party, subject to any limitations placed, at the discretion of the Presiding Officer, to avoid undue delay or unnecessary duplication of evidence. An intervenor shall be subject to any limitations placed on all other Parties.

101.07: continued

(b) Participants. The Presiding Officer may permit a person who may be affected by a Proceeding to participate. Such permission shall be limited to the right to present oral argument at the close of a hearing and to file a memorandum of law as an amicus. A petitioner which has been allowed to participate need not be a person who may be aggrieved by any result of the Proceeding. A person who petitioned to intervene and was allowed only to participate may participate without waiving any right to administrative or judicial review of the denial of that person's petition to intervene in a Proceeding.

101.08: Pre-hearing Procedures

(1) Pre-hearing Conferences. The Presiding Officer may hold one or more pre-hearing conferences before or after the initial hearing, but before the date set for the start of cross-examination. No more than ten days before the date of the initial hearing, the Presiding Officer may hold a pre-hearing conference to develop a schedule for the conduct of the Proceeding. The Presiding Officer may also direct the Parties to confer with him or her, or with each other to consider:

(a) simplification of issues;

(b) the possibility of obtaining stipulations or admissions of fact and agreements about documents to avoid unnecessary proof;

(c) limits on the number of expert witnesses;

(d) stipulations as to the qualifications of experts;

(e) limits on the time to be allowed for cross-redirect, and recross-examination;

(f) rulings as to evidentiary disputes; and

(g) other matters as may aid in the prompt disposition of the Proceeding.

After a pre-hearing conference, the Presiding Officer may issue an order regarding the scheduling of the Proceeding, which shall remain in place unless modified by the Presiding Officer.

(2) Discovery.

(a) The Parties are encouraged to engage in voluntary discovery. Any Party to a Proceeding may request any other Party to produce or make available any documents or tangible things, not privileged and not previously supplied, which are in the possession, custody or control of the Party to whom the request is made. Requests may be served on a Party after submission of its Rate Filing or Responsive Filing and shall set forth the items to be provided with reasonable particularity. Additional forms of discovery may be allowed, for good cause shown, at the discretion of the Presiding Officer.

(b) The Party receiving a discovery request shall respond within ten days unless the Presiding Officer establishes a different time period. The State Rating Bureau, in responding to requests for documents, shall be entitled to the fee per page for copies as set from time to time by the Executive Office for Administration and Finance. Parties are expected to attempt in good faith to resolve any disputes relating to discovery requests or the responses made to such requests. If they are unable to resolve their differences within five days of receiving a request for discovery or an allegedly insufficient response to a request for discovery, the affected Party may, as appropriate, file objections to a request for discovery, move for a protective order, or move to compel discovery. The Presiding Officer may, in his or her discretion, hold a hearing on the objections or motion. The Presiding Officer may issue protective orders to protect a Party from annoyance, embarrassment, oppression or undue burden or expense, or to prevent undue delay in the Proceeding. The Presiding Officer may order a Party to comply with a discovery request and may, where justice requires, order limits on the scope, method, time and place for discovery and provisions for protecting confidential or privileged information or documents.

101.09: Conduct of the Proceeding

(1) Presiding Officer. The Presiding Officer, in conducting the Proceeding, may administer oaths and affirmations, and shall make all rulings and orders concerning the admission or exclusion of evidence and testimony and on any other procedural matters that arise in the course of the Proceeding. The Presiding Officer may shorten or terminate any phase of the Proceeding for a Party's failure, without good cause, to comply with the schedule or to proceed with expedition. The Presiding Officer may grant an extension of time or allow a Party's motion for an extension of time if he or she determines that an extension is appropriate. The Presiding Officer may impose sanctions on a Party that does not comply with a ruling or order issued in a Proceeding. Such sanction may include entering orders or rulings on one or more issues, limiting the introduction of evidence or a Party's participation in a proceeding and addressing other matters as he or she deems appropriate.

(2) *Ex Parte* Communications. From the start of a Proceeding under 211 CMR 101.00 until the rendering of a final decision, no person who is not employed by the Division shall communicate *ex parte* with respect to the merits of the Proceeding with the Commissioner, the Presiding Officer, or any Division employee involved in the decision process for the Proceeding in question. A request for a report concerning the status of a Proceeding, an inquiry about the Division's practice or procedure, and State Rating Bureau communications with any other Party shall not be considered *ex parte* communications. If the Presiding Officer determines that a party has violated 211 CMR 101.09, the Presiding Officer may exclude such Party from the hearing or decide against that Party with prejudice. If the Presiding Officer determines that a person not a Party has violated 211 CMR 101.09, the Presiding Officer may exclude that person from the Proceeding.

(3) Oral Statements. Oral Statements generally will be heard at the commencement of an initial hearing, but the Presiding Officer may, in his or her discretion, permit Oral Statements later in the course of a Proceeding. Persons making Oral Statements shall not be sworn as witnesses. The Presiding Officer may specify the amount of time allowed to any person making an Oral Statement and, if the Presiding Officer determines that an Oral Statement is irrelevant, immaterial or unduly repetitious, may further restrict the time allowed.

(4) Motions. A Party may, by motion, request a ruling from the Presiding Officer. The motion shall state the ruling sought and the grounds therefor. The Presiding Officer may require a Party to submit a motion in writing and may, in his or her discretion, hear oral argument on a motion before making a ruling thereon.

(5) Official Notice. The Presiding Officer may take official notice of any fact which may be judicially noticed by the courts of this Commonwealth and, in addition, may take official notice of general, technical or scientific facts within his or her specialized knowledge; provided that the Presiding Officer shall notify all Parties of the material so noticed and shall, upon timely request, permit any Party to contest the facts so noticed. The Presiding Officer may utilize his or her technical experience, technical competence, and specialized knowledge in the evaluation of the evidence presented. A Party requesting that the Presiding Officer take official notice of facts or material must submit a copy of the material with the request.

(6) Evidence. The Presiding Officer need not observe the rules of evidence observed by the courts of Massachusetts or of the United States, but shall observe the rules of privilege recognized by Massachusetts law. Evidence may be admitted and given probative effect only if it is the kind of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs. The Presiding Officer may exclude testimony or evidence which he or she determines is unduly repetitious, or will have an unreasonably dilatory effect upon the Proceeding, or should have been submitted as part of a Rate Filing or a Responsive Filing. All evidence, including any records, investigative reports and documents in the possession of the Division, which the Presiding Officer desires to use in making a decision, shall be offered and made a part of the record in the Proceeding, and no other factual information or evidence shall be considered except as provided in 211 CMR 101.09. Documentary evidence may be submitted to the record in the form of copies or excerpts or, if permitted by the Presiding Officer, by incorporation by reference.

101.09: continued

(7) Written Direct Testimony. All sworn written testimony shall be offered in evidence with the same force and effect as if it were stated orally by the witness, and shall be subject to objections or motions to strike in the same manner as oral testimony. If a witness who has given sworn written testimony is unavailable for cross-examination on that testimony at a hearing, such sworn written testimony shall be removed and stricken from the record, in whole or in part, unless the Presiding Officer determines that no Party would be unduly prejudiced by its inclusion. For purposes of 211 CMR 101.09(7), "unavailable" shall include, without limitation, situations in which the witness is absent from the Proceeding or unreasonably obstructs cross-examination despite an order from the Presiding Officer.

(8) Cross-examination and Re-direct Examination. A party, except as otherwise provided by law or by 211 CMR 101.00, shall have the right to submit sworn written testimony and to cross-examine witnesses. Unless otherwise authorized by the Presiding Officer, cross-examination shall be limited to subject matters which are relevant to the direct testimony of the witness. Unless otherwise authorized by the Presiding Officer, redirect examination shall be limited to matters which are within the scope of the cross-examination of the witness.

(9) Rebuttal Evidence. A Party, except as otherwise provided by law or 211 CMR 101.00, shall have the right to submit rebuttal evidence. Rebuttal evidence shall be limited to denial of an affirmative fact that another Party has endeavored to prove. Surrebuttal evidence will be allowed at the discretion of the Presiding Officer. To the extent that any Party intends to introduce rebuttal or surrebuttal evidence, it shall inform the Presiding Officer, as soon as practicable, of its intention, the subject of the proposed evidence and the identity of any witnesses.

(10) Additional Evidence. At any stage of the hearing, the Presiding Officer may call for further evidence upon any issue, and may require any Party or Parties, to present such evidence. The Presiding Officer may also, in his or her discretion and for good cause shown, permit a Party during the Proceeding to introduce exhibits and to raise issues not included in its Rate Filing or Responsive Filing. In connection with a call for further evidence or cross-examination concerning such further evidence, the Presiding Officer may, in his or her discretion, alter the established hearing and filing schedules.

(11) Control of Testimony. The Presiding Officer shall have the right to question witnesses at any time in the course of their testimony. The Presiding Officer may impose reasonable time limits on cross-examination and redirect. If the Presiding Officer determines that the testimony of a witness is irrelevant, immaterial or repetitious, he or she may order the witness to limit or omit further testimony on a particular subject or to cease testifying.

(12) Offers of Proof. A Party may make an offer of proof after a ruling by the Presiding Officer excluding proposed evidence. The offer of proof shall include a summary of the substance of proposed oral testimony and copies of documents. The Presiding Officer may require that the offer of proof be made in writing. All written offers of proof shall be marked for identification.

(13) Stipulations. At any stage of the Proceeding, Parties may stipulate to any pertinent facts, either orally or in writing. In making findings, the Presiding Officer need not be bound by a stipulation, provided, however, that the Presiding Officer shall notify the Parties before the end of the proceeding if he or she does not intend to accept a stipulation, and shall give Parties a reasonable opportunity to present evidence of any fact or issue covered by such stipulation.

(14) Oral Argument. After completion of evidentiary hearings in a Proceeding, the Presiding Officer may, on his or her own or on the motion of any Party, allow oral argument. In determining whether oral argument should be allowed, the Presiding Officer shall consider the complexity or importance of the issues, the public interest to be served, and the availability of time.

(15) Conduct of Persons Present. All persons present at a hearing shall conduct themselves in a manner consistent with the standards of decorum commonly observed in the Massachusetts courts. When such standards are not observed, the Presiding Officer may take such action as he or she deems appropriate to maintain order, including the exclusion of any disorderly person from the hearing. If the person so excluded is a Party, its counsel or its authorized representative, the Presiding Officer may decide against such party with prejudice.

101.09: continued

(16) Transcripts. The Filing Party shall engage a qualified stenographer officially to record and transcribe a Proceeding. The Filing Party shall pay the stenographer's fees, including any fee for expedited transcripts, together with the cost of providing two copies of the transcript to the Division, in the format determined by the Presiding Officer, and one copy to the State Rating Bureau and to each Statutory Intervenor. Other Parties may, at their expense, obtain copies of the transcript from the stenographer.

101.10: Briefs

The Presiding Officer shall set a briefing schedule and may designate the order of filing briefs including, if permitted by the Presiding Officer, reply briefs. A Party may request an extension of time to file a brief by motion made before expiration of the scheduled time for filing. Each Party shall file six copies of its brief with the Division, unless the Presiding Officer orders otherwise, and shall serve a copy on all other Parties, including each Interested Party. At least one printed copy of a brief must be submitted to the Division in an unbound format. In addition to printed copies, the Presiding Officer may require Parties to file a copy of a brief on computer disk in a format determined by the Presiding Officer.

Each brief shall contain:

(a) a concise statement of the case;

(b) a summary of arguments with supporting evidence;

(c) a discussion of any other matters that the Presiding Officer has asked the Parties to address in their briefs; and

(d) a conclusion specifying the relief requested.

101.11: Decisions and Orders

The Presiding Officer's Decisions and Orders shall be in writing or stated on the record and shall be accompanied by a statement of reasons therefor, including a determination of each material issue of fact or law necessary to the decision.

101.12: Revised Rate Filings

If a Rate Filing, or any component thereof, is disapproved, the Presiding Officer may indicate an alternative rate or rate components, if any, that he or she, based on the evidence in the record, would find to be reasonable. If a filed rate is disapproved, the Filing Party may, within a time period specified in the Decision and Order disapproving the Rate Filing, file a Revised Rate Filing in the same Proceeding. The Revised Rate Filing must contain all information on rate components, satisfy all requirements set out in the Decision and Order, and comply with the format, filing and service requirements in 211 CMR 101.03 and 211 CMR 101.04, but need not otherwise comply with 211 CMR 101.04. No later than ten days after a Revised Rate Filing is submitted, the Presiding Officer may hold a hearing at which the Presiding Officer may hear argument and receive evidence regarding compliance of the Revised Rate Filing with the Decision and Order. The Presiding Officer may permit the Filing Party to revise the Revised Rate Filing further to meet the requirements of the Decision and Order. If the Presiding Officer determines that the Revised Rate Filing complies with the Decision and Order, he or she shall approve it.

101.13: Appeals

(1) The Presiding Officer shall notify all parties of their right to appeal the Decision and Order.

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(2) Appeal of Decisions to the Commissioner. Any person aggrieved by a Decision and Order approving or disapproving a Rate Filing or a Revised Rate Filing issued in a Proceeding conducted by a Presiding Officer designated by the Commissioner, which the Commissioner has not affirmed, may appeal the decision to the Commissioner pursuant to M.G.L. c. 26, § 7. Upon the docketing of an appeal under M.G.L. c. 26, § 7, the Commissioner shall set a date by which the aggrieved person must file a brief which states the grounds for the appeal and the relief requested. A person who fails to timely file a brief thereby waives its right to appeal. The Commissioner shall notify all parties of the appeal, and of the filing date for the appeal brief. If the Commissioner determines, upon review of the brief and the record, that the appeal is without substantial merit, he or she may issue a decision denying the appeal. Otherwise, the Commissioner shall set a filing date for briefs by parties to the Proceeding and shall issue a decision after that date. The Commissioner may modify, affirm or reverse the Presiding Officer's decision, in whole or in part.

REGULATORY AUTHORITY

211 CMR 101.00: M.G.L. c. 175 and c. 175C.