

### § 3001.18

### 39 CFR Ch. III (7-1-03 Edition)

generally affect service on a nationwide or substantially nationwide basis;

(4) The Commission in the exercise of its discretion determines that an opportunity for hearing should be provided with regard to a complaint filed pursuant to subpart E of this part; or

(5) The Commission in the exercise of its discretion determines to institute any other proceeding under the Act.

(b) *Appellate proceedings under 39 U.S.C. 404(b)*. The Commission shall issue a notice of proceeding to be determined on a record compiled by the Postal Service whenever:

(1) An appeal of a determination of the Postal Service to close or consolidate a post office is taken to the Postal Rate Commission pursuant to subpart H of this part; or

(2) An application to suspend the effective date of a determination of the Postal Service to close or consolidate a post office pending appeal to the Postal Rate Commission is made pursuant to subpart H of this part.

(c) *Publication and service of notice*. Each notice of proceeding shall be published in the FEDERAL REGISTER and served on the Postal Service, the complainant in a complaint proceeding, and the appellant in the appeal of a Postal Service determination to close or consolidate a post office.

(d) *Contents of notice*. The notice of a proceeding shall include the following:

(1) The general nature of the proceeding involved in terms of categories listed in paragraphs (a) and (b) of this section;

(2) A reference to the legal authority under which the proceeding is to be conducted;

(3) A concise description of proposals for changes in rates or fees, proposals for the establishment of or changes in the mail classification schedule, proposals for changes in the nature of postal services; in the case of a complaint, an identification of the complainant and a concise description of the subject matter of the complaint or, in the case of an appeal, an identification of the appellant and a summarization of the Postal Service determination to close or consolidate under review;

(4) The date by which notices of intervention and requests for hearing must be filed; and

(5) Such other information as the Commission may desire to include.

[36 FR 396, Jan. 12, 1971, as amended at 42 FR 10992, Feb. 25, 1977; 42 FR 13826, Mar. 14, 1977; 58 FR 38976, July 21, 1993; 65 FR 6540, Feb. 10, 2000]

### § 3001.18 Nature of proceedings.

(a) *Proceedings to be set for hearing*. Except as otherwise provided in these rules, in any case noticed for a proceeding to be determined on the record pursuant to § 3001.17(a), the Commission may hold a public hearing if a hearing is requested by any party to the proceeding or if the Commission in the exercise of its discretion determines that a hearing is in the public interest. The Commission may give notice of its determination that a hearing shall be held in its original notice of the proceeding or in a subsequent notice issued pursuant to paragraph (b) of this section and § 3001.19.

(b) *Procedure in hearing cases*. In proceedings which are to be set for hearing, the Commission shall issue a notice of hearing or prehearing conference pursuant to § 3001.19. After the completion of the hearing, the Commission or the presiding officer shall receive such briefs and hear such oral argument as may be ordered by the Commission or the presiding officer pursuant to §§ 3001.34 to 3001.37, and the Commission shall then issue a recommended decision, advisory opinion, or public report, as appropriate, in accordance with the provisions of §§ 3001.38 to 3001.39.

(c) *Procedure in non-hearing cases*. In any case noticed for a proceeding to be determined on the record in which a hearing is not requested by any party or ordered by the Commission, the Commission or the presiding officer shall issue a notice of the procedure to be followed with regard to the filing of briefs and oral argument, and a recommended decision, advisory opinion, or public report, as appropriate, shall then be issued pursuant to the provisions of §§ 3001.34 to 3001.39. The Commission or presiding officer may, if necessary or desirable, call procedural

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conferences by issuance of a notice pursuant to § 3001.19.

[36 FR 396, Jan. 12, 1971, as amended at 65 FR 6540, Feb. 10, 2000]

### § 3001.19 Notice of prehearing conference or hearing.

In any proceeding noticed for a proceeding on the record pursuant to § 3001.17(a) the Commission shall give due notice of any prehearing conference or hearing by including the time and place of the conference or hearing in the notice of proceeding or by subsequently issuing a notice of prehearing conference or hearing. Such notice of prehearing conference or hearing shall give the title and docket designation of the proceeding, a reference to the original notice of proceeding and the date of such notice, and the time and place of the conference or hearing. Such notice shall be published in the FEDERAL REGISTER and served on all participants in the proceeding involved. Notice of the time and place where a hearing will be reconvened shall be served on all participants in the proceeding unless announcement was made thereof by the presiding officer at the adjournment of an earlier session of the prehearing conference or hearing.

[65 FR 6540, Feb. 10, 2000]

### § 3001.20 Formal intervention.

(a) *Who may intervene.* A notice of intervention will be entertained in those cases that are noticed for a proceeding pursuant to § 3001.17(a) from any person claiming an interest of such nature that intervention is allowed by the Act, or appropriate to its administration.

(b) *Contents.* A notice of intervention shall clearly and concisely set forth the nature and extent of the intervenor's interest in the issues to be decided, including the classifications of postal service utilized by the intervenor giving rise to his/her interest in the proceeding, and to the extent known, the position of the intervenor with regard to the proposed changes in postal rates, fees, classifications, or services, or the subject matter of the complaint, as described in the notice of the proceeding. Such notice shall state

whether or not the intervenor requests a hearing or in lieu thereof, a conference, and whether or not the intervenor intends to actively participate in a hearing. Such notice shall also include on page one thereof the name and full mailing address of no more than two persons who are to receive service of any documents relating to such proceeding.

(c) *Form and time of filing.* Notices of intervention shall be filed no later than the date fixed for such filing in any notice or order with respect to the proceeding issued by the Commission or its Secretary, unless in extraordinary circumstances for good cause shown, the Commission authorizes a late filing. Notices of intervention shall conform to the requirements of §§ 3001.9 through 3001.12.

(d) *Oppositions.* Oppositions to notices of intervention may be filed by any participant in the proceeding no later than 10 days after the notice of intervention is filed. Pending Commission action, an opposition to intervention shall delay on a day-for-day basis, the date for responses to discovery requests filed by that intervenor.

(e) *Effect of intervention.* A person filing a notice of intervention shall be a party to the proceeding subject, however, to a determination by the Commission, either in response to an opposition, or sua sponte, that party status is not appropriate under the Act. Intervenors are also subject to the right of the Commission or the presiding officer as specified in § 3001.24 to require two or more intervenors having substantially like interests and positions to join together for purposes of service of documents, presenting evidence, making and arguing motions and objections, cross-examining witnesses, filing briefs, and presenting oral arguments to the Commission or presiding officer. No intervention shall be deemed to constitute a decision that the intervening party has such an interest in the proceeding that he/she would be aggrieved by an ultimate decision by order of the Commission.

[48 FR 15627, Apr. 12, 1983, as amended at 58 FR 38976, July 21, 1993; 58 FR 38976, July 21, 1993; 65 FR 6540, Feb. 10, 2000; 67 FR 67561, Nov. 6, 2002]