Commodity Futures Trading Commission

§ 12.308

(d) [Reserved]

(e) In his discretion, to conduct pre-decision conferences, for the purposes prescribed in §12.303, at any time after a proceeding has commenced pursuant to §12.26(c);

(f) To issue pre-hearing orders as required by §12.312(a);

(g) To certify interlocutory matters to the Commission for its determination in accordance with §12.309;

(h) To issue orders of dismissal pursuant to §12.308;

(i) To issue default orders for good cause against parties who fail to participate in the proceeding, or to comply with these rules;

(j) If appropriate, to issue orders for summary disposition in the manner prescribed by §12.310;

(k) If an oral hearing is ordered, to preside at the oral hearing, which shall include the authority to receive relevant evidence, to administer oaths and affirmations, to examine witnesses, and to rule on offers of proof;

(l) To make the initial decision; and

(m) To issue such orders, and take any other actions as are required to give effect to these rules.


§ 12.306 Filing of documents; subscription; service.

Except as otherwise specifically provided in these rules, all documents filed in a formal decisional proceeding including, but not limited to, amended or supplemental pleadings, motions, discovery notices or requests, and responses thereto, documents filed or produced pursuant to §12.34 of these rules, and submissions of proof, shall meet the requirements of §§12.11 and 12.12 of the rules as to form, and shall be filed and served in accordance with §12.10 of the Reparation Rules.

§ 12.307 Amended and supplemental pleadings.

(a) Amendments to pleadings. At any time before the parties have concluded their submissions of proof, the Administrative Law Judge may allow amendments of the pleadings either upon written consent of the parties or for good cause shown. Any party may file a response to a motion to amend the pleadings within ten (10) days after the date of service upon him of the motion.

(b) Supplemental pleadings. At any time before the parties have concluded their submissions of proof, and upon such terms as are just, an Administrative Law Judge may, upon motion by a party, permit a party to serve a supplemental pleading setting forth transactions, occurrences or events which have happened since the date of the pleadings sought to be supplemented and which are relevant to the issues in the proceeding. Any party may file a response to a motion to supplement the pleadings with ten (10) days after the date of service upon him of the motion.

(c) Pleadings to conform to the evidence. When issues not raised by the pleadings but reasonably within the scope of a formal decisional proceeding are tried with the express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings.

§ 12.308 Motions.

(a) In general. An application for a form of relief not otherwise specifically provided for in this subpart E shall be made by a motion, which shall be in writing (unless made on the record during an oral hearing). The motion shall...
§ 12.309 Interlocutory review by the Commission.

Interlocutory review by the Commission of a ruling on a motion by an Administrative Law Judge may be sought only as prescribed in this rule:

(a) When interlocutory appeal may be taken. An interlocutory appeal may be permitted, in the discretion of the Commission, under the following circumstances:

(1) The appeal is from a ruling pursuant to §12.102, §12.202, or §12.305 refusing to grant a motion to disqualify a Judgment Officer or Administrative Law Judge;

(2) The appeal is from a ruling pursuant to §12.9 suspending an attorney from participation in a reparation proceeding;

(3) Upon a determination by the Administrative Law Judge certified to the Commission either in writing or on the record, that

(i) A ruling sought to be appealed involves a controlling question of law or policy;

(ii) An immediate appeal materially advances the ultimate resolution of the issues in the proceeding; and

(iii) Subsequent reversal of the ruling would cause unnecessary delay or expense to the parties; or

(4) The appeal is from a ruling which satisfies the conditions of paragraphs (a)(3) (i)-(iii) of this section, despite the absence of certification, and extraordinary circumstances are shown to exist.

(b) Procedure to obtain interlocutory review. An application for interlocutory review may be served and filed within ten (10) days after service of a ruling described in paragraphs (a)(1), (a)(2), and (a)(4) of this section or of notice that a determination has been made pursuant to paragraph (a)(3) of this section. The application for interlocutory review shall contain: