§ 502.261 Petitions for reconsideration and stay.

(a) Within thirty (30) days after issuance of a final decision or order by the Commission, any party may file a petition for reconsideration. Such petition shall be limited to 25 pages in length and shall be served in conformity with the requirements of subpart H of this part. A petition will be subject to summary rejection unless it:

(1) Specifies that there has been a change in material fact or in applicable law, which change has occurred after issuance of the decision or order;

(2) Identifies a substantive error in material fact contained in the decision or order; or

(3) Addresses a finding, conclusion or other matter upon which the party has not previously had the opportunity to comment or which was not addressed in the briefs or arguments of any party. Petitions which merely elaborate upon or repeat arguments made prior to the decision or order will not be received. A petition shall be verified if verification of the original pleading is required and shall not operate as a stay of any rule or order of the Commission.

(b) A petition for stay of a Commission order which directs the discontinuance of statutory violations will not be received.

(c) The provisions of this section are not applicable to decisions issued pursuant to subpart S of this part. [Rule 261.]

[49 FR 44369, Nov. 6, 1984, as amended at 58 FR 27211, May 7, 1993]

§ 502.262 Reply to petition for reconsideration or stay.

Any party may file a reply in opposition to a petition for reconsideration or stay within fifteen (15) days after the date of service of the petition in accordance with §502.74. The reply shall be limited to 25 pages in length and shall be served in conformity with subpart H of this part. [Rule 262.]

[58 FR 27211, May 7, 1993]
must also make a similar service and certification with respect to the common carrier.

(5) Applications must be accompanied by remittance of a $77 filing fee.

(e) Any application which does not furnish the information required by this Subpart may be returned to the applicant by the Secretary without prejudice to resubmission within the 180-day limitation period.

(f)(1) The Secretary in his discretion shall either forward an application to the Office of Consumer Affairs and Dispute Resolution Services, for assignment to a Special Dockets Officer, or assign an application to the Office of Administrative Law Judges. Authority to issue decisions under this subpart is delegated to the assigned Special Dockets Officer or Administrative Law Judge.

(2) Applicants will be notified as to the assignment of a deciding official, and the assignment of a special docket number. Formal proceedings as described in other rules of this part need not be conducted. The deciding official may, in his or her discretion, require the submission of additional information.

(g) The deciding official shall issue a decision which, pursuant to §501.21 of this chapter, shall become final ten (10) days after service of such decision, unless the Commission in its discretion chooses to review such decision within that time, or the applicant chooses to file exceptions to such decision within that time. [Rule 271.]


EXHIBIT NO. 1 TO SUBPART Q
§ 502.271(d) OF PART 502—APPLICATION FOR REFUND OR WAIVER OF FREIGHT CHARGES DUE TO TARIFF OR QUOTING ERROR

Federal Maritime Commission Special Docket No. [leave blank].

Amount of Freight Charges to be refunded or waived:

Application of (Name of carrier or shipper) for the benefit of (Name of person who paid or is responsible for payment of freight charges).

1. Shipment(s). Here fully describe:

(a) Commodity (according to tariff description).
(b) Number of shipments.
(c) Weight or measurement, container size, and number of containers of individual shipment, as well as all shipments.
(d)(1) Date(s) of receipt of shipment(s) by the carrier;
(2) Date(s) of sailing(s) (furnish supporting evidence).
(e) Shipper and place of origin.
(f) Consignee, place of destination and routing of shipment(s).
(g) Name of carrier and date shown on bill of lading (furnish legible copies of bill(s) of lading).
(h) Names of participating ocean carrier(s).
(i) Name(s) of vessel(s) involved in carriage.
(l) Amount of freight charges actually collected (furnish legible copies of rated bill(s) of lading or freight bill(s), as appropriate) broken down (i) per shipment, (ii) in the aggregate, (iii) by whom paid, (iv) who is responsible for payment if different, and (v) date(s) of collection.
(k) Rate and tariff commodity description applicable at time of shipment (furnish legible copies of tariff materials).
(l) Rate and commodity description sought to be applied (furnish legible copies of applicable tariff materials).
(m)(1) Amount of applicable freight charges, per shipment and in the aggregate;
(2) Amount of freight charges at rate sought to be applied, per shipment and in the aggregate.
(n) Amount of freight charges sought to be refunded (waived), per shipment and in the aggregate.

2. Furnish docket numbers of other special docket applications or decided or pending formal proceedings involving the same rate situations.

3. Fully explain the basis for the application, i.e., the error, failure to publish, or misquote, showing why the application should be granted. Furnish affidavits, if appropriate, and legible copies of all supporting documents. If the error is due to failure to publish a tariff, specify the date when the carrier and/or conference intended or agreed to publish a new tariff. If the application is based on a misquote, the application must include the affidavit of the person who made the misquote describing the circumstances surrounding such misquote along with any other supporting documentary evidence available.

4. Furnish any information or evidence as to whether granting the application may result in discrimination among shippers, ports or carriers. List any shipments of other shippers of the same commodity which (i) moved via the carrier(s) or conference involved in this application during the period of time beginning on the date the intended rate would