

## Federal Energy Regulatory Commission

## § 1b.20

### § 1b.17 Appearance and practice before the Commission.

The provisions of subpart U of part 385 of this chapters are specifically applicable to all investigations.

[43 FR 27174, June 23, 1978, as amended by Order 225, 47 FR 19054, May 3, 1982]

### § 1b.18 Right to submit statements.

Any person may, at any time during the course of an investigation, submit documents, statements of facts or memoranda of law for the purpose of explaining said person's position or furnishing evidence which said person considers relevant regarding the matters under investigation.

### § 1b.19 Submissions.

In the event the Investigating Officer determines to recommend to the Commission that an entity be made the subject of a proceeding governed by part 385 of this chapter, or that an entity be made a defendant in a civil action to be brought by the Commission, the Investigating Officer shall, unless extraordinary circumstances make prompt Commission review necessary in order to prevent detriment to the public interest or irreparable harm, notify the entity that the Investigating Officer intends to make such a recommendation. Such notice shall provide sufficient information and facts to enable the entity to provide a response. Within 30 days of such notice, the entity may submit to the Investigating Officer a non-public response, which may consist of a statement of fact, argument, and/or memorandum of law, with such supporting documentation as the entity chooses, showing why a proceeding governed by part 385 of this chapter should not be instituted against said entity, or why said entity should not be made a defendant in a civil action brought by the Commission. If the response is submitted by the due date, the Investigating Officer shall present it to the Commission together with the Investigating Officer's recommendation. The Commission will consider both the Investigating Officer's recommendation and the entity's timely response in deciding whether to take further action.

[Order 711, 73 FR 29433, May 21, 2008]

### § 1b.20 Request for confidential treatment.

Any person compelled to produce documents in an investigation may claim that some or all of the information contained in a particular document(s) is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552), is information referred to in 18 U.S.C. 1905, or is otherwise exempt by law from public disclosure. In such case, the person making such claim shall, at the time said person produces the document to the officer conducting the investigation shall also produce a second copy of the document from which has been deleted the information for which the person wishes to claim confidential treatment. The person shall indicate on the original document that a request for confidential treatment is being made for some or all of the information in the document and shall file a statement specifying the specific statutory justification for non-disclosure of the information for which confidential treatment is claimed. General claims of confidentiality are not sufficient. Sufficient information must be furnished for the officer conducting the investigation, or other appropriate official, to make an informed decision on the request for confidential treatment. If the person states that the information comes within the exception in 5 U.S.C. 552(b)(4) for trade secrets and commercial or financial information, the person shall include a statement specifying why the information is privileged or confidential. If the person filing a document does not submit a second copy of the document with the confidential information deleted, the Officer conducting the investigation may assume that there is no objection to public disclosure of the document in its entirety. The Commission retains the right to make the determination with regard to any claim of confidentiality. Notice of the decision by the investigating Officer or other appropriate official to deny a claim, in whole or in part, and an opportunity to respond shall be given to a person claiming confidentiality no less than 5 days before its public disclosure.