

§ 502.3

including footnotes and endnotes, must not be smaller than 12-point.

(k) *Discovery materials excluded from filing requirement.* (1) The following discovery requests and responses must not be filed with the Secretary until they are used in the proceeding, or the Commission or presiding officer orders filing:

- (i) Notice and transcript of depositions;
- (ii) Interrogatories;
- (iii) Requests for documents or tangible things or to permit entry onto designated land or other property;
- (iv) Requests for admission; and
- (v) Expert witness reports.

(2) The party that served the notice of deposition or discovery papers must preserve and ensure the integrity of original transcripts and discovery papers for use by the Commission or the presiding officer. A party that wants to use any part or all of discovery requests and responses in the proceeding must include the part or all of the documents in an appendix to be filed with the motion or other paper that refers to those documents. A party filing an appendix exceeding 100 pages should file an original and two (2) copies on paper and, if possible, also file such appendix by e-mail or on an electronic storage device. [Rule 2.]

[76 FR 10259, Feb. 24, 2011]

§ 502.3 Compliance with rules or orders of Commission.

Persons named in a rule or order shall notify the Commission during business hours on or before the day on which such rule or order becomes effective whether they have complied therewith, and if so, the manner in which compliance has been made. [Rule 3.]

[76 FR 10260, Feb. 24, 2011]

§ 502.4 Authentication of rules or orders of Commission.

All rules or orders issued by the Commission in any proceeding covered by this part shall, unless otherwise specifically provided, be signed by the Secretary of the Commission in the name of the Commission. [Rule 4.]

[76 FR 10260, Feb. 24, 2011]

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§ 502.5 Documents containing confidential materials.

Except as otherwise provided in the rules of this part, all filings that contain information for which confidential treatment is sought or information previously designated as confidential pursuant to §§ 502.13, 502.141(j)(1)(vii), 502.208, or any other rules of this part, or for which a request for protective order pursuant to § 502.141(j) is pending, are subject to the following requirements:

(a) *Two versions of filings.* Two versions of documents must be filed if a document:

(1) Contains information previously designated by the Commission or presiding officer as confidential; or

(2) Contains information for which confidential treatment is sought. Except as specified below, both versions must be filed in accordance with the requirements of § 502.2.

(i) *Confidential version.* The confidential filing must include a cover page marked “Confidential-Restricted.” The specific confidential information must be conspicuously and clearly marked on each page, for example by highlighting or bracing. If confidentiality will end on a date certain or upon the occurrence of an event, this must be stated on the cover, e.g., “CONFIDENTIAL UNTIL [DATE],” or “CONFIDENTIAL DURING JUDICIAL REVIEW.” The confidential version of a document may be provided to the presiding officer by email but should not be filed with the Office of the Secretary by email.

(ii) *Public version.* Within three business days of filing a confidential version of a filing, a public version must be filed. The public version must indicate on the cover page and on each affected page “Public Version—confidential materials excluded.” The public version must clearly indicate any information withheld, for example with blackout or braces, and its pagination and depiction of text on each page must be identical to that of the confidential version. For example, the confidential filing may read: “On January 1, 2005, complainant entered into a {25} year lease with respondent for a monthly rent of {\$1,000}.” The public version would read: “On January 1,

2005, complainant entered into a {} year lease with respondent for a monthly rent of {}." Public versions of confidential filings may be filed with the Secretary and presiding officer by email.

(iii) *Exhibits.* Confidential information in exhibits should be marked as specified above. If marking within the text is not feasible, individual pages may be replaced in the public version with a page indicating that confidential material is excluded. Entire exhibits should not be excluded, only those pages containing confidential material.

(b) *Motion for confidential treatment.* If confidentiality is sought for a filing containing information not previously designated as confidential by the Commission or presiding officer, the confidential filing must be accompanied by a motion justifying confidential treatment. This motion must identify the specific information in a document for which protection is sought and show good cause by demonstrating that the information is a trade secret or other confidential research, development, or commercial information pursuant to §502.141(j)(1)(vii). The burden is on the party that wants to protect the information to show good cause for its protection. A motion is not required for information, including personal privacy and financial account numbers, redacted pursuant to §502.13, Privacy protection for filings made with the Commission.

(c) *Use of confidential information.* Confidential treatment afforded by this section is subject to the proviso that any information designated as confidential may be used by the administrative law judge or the Commission if deemed necessary to a decision in the proceeding. [Rule 5.]

[80 FR 14318, Mar. 19, 2015, as amended at 81 FR 93835, Dec. 22, 2016]

§ 502.6 Verification of documents.

(a) If a party is represented by an attorney or other person qualified to practice before the Commission under the rules in this part, each pleading, document or other paper of such party filed with the Commission shall be signed by at least one person of record admitted to practice before the Commission in his or her individual name,

whose address shall be stated. Except when otherwise specifically provided by rule or statute, such pleading, document or paper need not be verified or accompanied by affidavit. The signature of a person admitted or qualified to practice before the Commission constitutes a certificate by the signer that the signer has read the pleading, document or paper; that the signer is authorized to file it; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry, the filing is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. For a willful violation of this section, a person admitted or qualified to practice before the Commission may be subjected to appropriate disciplinary action.

(b) If a party is not represented by a person admitted or qualified to practice before the Commission, each pleading, document or other paper of such party filed with the Commission shall be signed and verified under oath by the party or by a duly authorized officer or agent of the party, whose address and title shall be stated.

(c) Wherever, under any rules of this part, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition under §502.143 or §502.144), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by such person, as true under penalty of perjury, in substantially the following form:

(1) If executed without the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct."