

by first-class mail and shall be deemed served on the day of personal delivery or the day of mailing.

(4) When a party has appeared in a proceeding by an attorney, service on that individual of any document pertaining to the proceeding other than a complaint shall be deemed service upon the party. However, service of those documents specified in paragraph (a)(1) of this section shall first be attempted in accordance with the provision of paragraphs (a)(1) (i), (ii), and (iii) of this section.

(b) *By other parties.* Service of documents by parties other than the Commission shall be by delivering copies thereof as follows: Upon the Commission, by personal delivery or delivery by first-class mail to the Office of the Secretary of the Commission and, in adjudicative proceedings under part 3 of the Commission's Rules of Practice, to the Assistant Director in the Bureau of Competition, the Associate Director in the Bureau of Consumer Protection, or the Director of the Regional Office of complaint counsel. Upon a party other than the Commission or Commission counsel, service shall be by personal delivery or delivery by first-class mail. If the party is an individual or partnership, delivery shall be to such individual or a member of the partnership; if a corporation or unincorporated association, to an officer or agent authorized to accept service of process therefor. Personal service includes handling the document to be served to the individual, partner, officer, or agent; leaving it at his or her office with a person in charge thereof; or, if there is no one in charge or if the office is closed or if the party has no office, leaving it at his or her dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Documents served in adjudicative proceedings under part 3 of the Commission's Rules of Practice shall be deemed served on the day of personal service or the day of mailing. All other documents shall be deemed served on the day of personal service or on the day of delivery by the Post Office.

(c) *Proof of service.* In an adjudicative proceeding under part 3 of the Commission's Rules of Practice, papers pre-

pared for filing by a party respondent or intervenor shall contain an acknowledgment of service by the person served or proof of service in the form of a statement of the date and manner of service and of the names of the person served, certified by the person who made service. Proof of service may appear on or be affixed to the papers filed.

[50 FR 28097, July 10, 1985]

§ 4.5 Fees.

(a) *Deponents and witnesses.* Any person compelled to appear in person in response to subpoena shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

(b) *Presiding officers.* Officers before whom depositions are taken shall be entitled to the same fees as are paid for like services in the courts of the United States.

(c) *Responsibility.* The fees and mileage referred to in this section shall be paid by the party at whose instance deponents or witnesses appear.

[32 FR 8456, June 13, 1967]

§ 4.6 Cooperation with other agencies.

It is the policy of the Commission to cooperate with other governmental agencies to avoid unnecessary overlapping or duplication of regulatory functions.

[32 FR 8456, June 13, 1967]

§ 4.7 Ex parte communications.

(a) *Definitions.* For purposes of this section, *ex parte communication* means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proceeding.

(b) *Prohibited ex parte communications.* While a proceeding is in adjudicative status within the Commission, except to the extent required for the disposition of *ex parte* matters as authorized by law:

(1) No person not employed by the Commission, and no employee or agent of the Commission who performs investigative or prosecuting functions in adjudicative proceedings, shall make or