

§ 1780.11

actual service. The presiding officer may allow the proof to be amended or supplied, unless to do so would result in material prejudice to a party.

§ 1780.11 Computing time.

(a) *General rule.* In computing any period of time prescribed or allowed by this subpart, the date of the act or event that commences the designated period of time is not included. The last day so computed is included unless it is a Saturday, Sunday, or Federal holiday. When the last day is a Saturday, Sunday or Federal holiday, the period shall run until the end of the next day that is not a Saturday, Sunday, or Federal holiday. Intermediate Saturdays, Sundays and Federal holidays are included in the computation of time. However, when the time period within which an act is to be performed is 10 days or less, not including any additional time allowed for in paragraph (c) of this section, intermediate Saturdays, Sundays and Federal holidays are not included.

(b) *When papers are deemed to be filed or served.* (1) Filing and service are deemed to be effective—

(i) In the case of personal service or same day reliable commercial delivery service, upon actual service;

(ii) In the case of U.S. Postal Service or reliable commercial overnight delivery service, or first class, registered, or certified mail, upon deposit in or delivery to an appropriate point of collection; or

(iii) In the case of transmission by electronic media, as specified by the authority receiving the filing in the case of filing, and as agreed among the parties in the case of service.

(2) The effective filing and service dates specified in paragraph (b)(1) of this section may be modified by the Director or the presiding officer in the case of filing or by agreement of the parties in the case of service.

(c) *Calculation of time for service and filing of responsive papers.* Whenever a time limit is measured by a prescribed period from the service of any notice or paper, the applicable time limits shall be calculated as follows:

(1) If service was made by first class, registered, or certified mail, or by delivery to the U.S. Postal Service for

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longer than overnight delivery service, add three calendar days to the prescribed period for the responsive filing.

(2) If service was made by U.S. Postal Service or reliable commercial overnight delivery service, add 1 calendar day to the prescribed period for the responsive filing.

(3) If service was made by electronic media transmission, add one calendar day to the prescribed period for the responsive filing, unless otherwise determined by the Director or the presiding officer in the case of filing, or by agreement among the parties in the case of service.

§ 1780.12 Change of time limits.

Except as otherwise provided by law, the presiding officer may, for good cause shown, extend the time limits prescribed above or prescribed by any notice or order issued in the proceedings. After the referral of the case to the Director pursuant to § 1780.53, the Director may grant extensions of the time limits for good cause shown. Extensions may be granted on the motion of a party after notice and opportunity to respond is afforded all non-moving parties, or on the Director's or the presiding officer's own motion.

§ 1780.13 Witness fees and expenses.

Witnesses (other than parties) subpoenaed for testimony or depositions shall be paid the same fees for attendance and mileage as are paid in the United States district courts in proceedings in which the United States is a party, provided that, in the case of a discovery subpoena addressed to a party, no witness fees or mileage shall be paid. Fees for witnesses shall be tendered in advance by the party requesting the subpoena, except that fees and mileage need not be tendered in advance where OFHEO is the party requesting the subpoena. OFHEO shall not be required to pay any fees to or expenses of any witness not subpoenaed by OFHEO.

§ 1780.14 Opportunity for informal settlement.

Any respondent may, at any time in the proceeding, unilaterally submit to OFHEO's counsel of record written offers or proposals for settlement of a

proceeding without prejudice to the rights of any of the parties. No such offer or proposal shall be made to any OFHEO representative other than OFHEO's counsel of record. Submission of a written settlement offer does not provide a basis for adjourning or otherwise delaying all or any portion of a proceeding under this part. No settlement offer or proposal, or any subsequent negotiation or resolution, is admissible as evidence in any proceeding.

§ 1780.15 OFHEO's right to conduct examination.

Nothing contained in this part limits in any manner the right of OFHEO to conduct any examination, inspection, or visitation of any Enterprise or affiliate, or the right of OFHEO to conduct or continue any form of investigation authorized by law.

§ 1780.16 Collateral attacks on adjudicatory proceeding.

If an interlocutory appeal or collateral attack is brought in any court concerning all or any part of an adjudicatory proceeding, the challenged adjudicatory proceeding shall continue without regard to the pendency of that court proceeding. No default or other failure to act as directed in the adjudicatory proceeding within the times prescribed in this subpart shall be excused based on the pendency before any court of any interlocutory appeal or collateral attack.

Subpart B—Prehearing Proceedings

SOURCE: 64 FR 72513, Dec. 28, 1999, unless otherwise noted.

§ 1780.20 Commencement of proceeding and contents of notice of charges.

Proceedings under this subpart are commenced by the issuance of a notice of charges by the Director, which must be served upon the respondent. Such notice shall state all of the following:

(a) The legal authority for the proceeding and for OFHEO's jurisdiction over the proceeding;

(b) A statement of the matters of fact or law showing that OFHEO is entitled to relief;

(c) A proposed order or prayer for an order granting the requested relief;

(d) The time, place and nature of the hearing;

(e) The time within which to file an answer;

(f) The time within which to request a hearing; and

(g) The address for filing the answer and/or request for a hearing.

§ 1780.21 Answer.

(a) *When.* Unless otherwise specified by the Director in the notice, respondent shall file an answer within 20 days of service of the notice.

(b) *Content of answer.* An answer must respond specifically to each paragraph or allegation of fact contained in the notice and must admit, deny, or state that the party lacks sufficient information to admit or deny each allegation of fact. A statement of lack of information has the effect of a denial. Denials must fairly meet the substance of each allegation of fact denied; general denials are not permitted. When a respondent denies part of an allegation, that part must be denied and the remainder specifically admitted. Any allegation of fact in the notice that is not denied in the answer is deemed admitted for purposes of the proceeding. A respondent is not required to respond to the portion of a notice that constitutes the prayer for relief or proposed order. The answer must set forth affirmative defenses, if any, asserted by the respondent.

(c) *Default.* Failure of a respondent to file an answer required by this section within the time provided constitutes a waiver of such respondent's right to appear and contest the allegations in the notice. If no timely answer is filed, OFHEO's counsel of record may file a motion for entry of an order of default. Upon a finding that no good cause has been shown for the failure to file a timely answer, the presiding officer shall file with the Director a recommended decision containing the findings and the relief sought in the notice. Any final order issued by the Director based upon a respondent's failure to answer is deemed to be an order issued upon consent.