

## **§ 502.133**

### **§ 502.133 Attendance and mileage fees.**

Witnesses summoned by subpoena to a hearing or deposition are entitled to the same fees and mileage that are paid to witnesses in courts of the United States. Fees and mileage shall be paid, upon request, by the party at whose instance the witness appears. [Rule 133.]

[64 FR 7809, Feb. 17, 1999, as amended at 76 FR 10262, Feb. 24, 2011]

### **§ 502.134 Service of subpoenas.**

If service of a subpoena is made by a United States marshal, or his or her deputy, or an employee of the Commission, such service shall be evidenced by his or her return thereon. If made by any other person, such person shall make affidavit thereto, describing the manner in which service is made, and return such affidavit on or with the original subpoena. In case of failure to make service, the reasons for the failure shall be stated on the original subpoena. In making service, the original subpoena shall be exhibited to the person served, shall be read to him or her if he or she is unable to read, and a copy thereof shall be left with him or her. The original subpoena, bearing or accompanied by required return, affidavit, or statement, shall be returned without delay to the Commission, or if so directed on the subpoena, to the presiding officer before whom the person named in the subpoena is required to appear. [Rule 134.]

[49 FR 44369, Nov. 6, 1984, as amended at 76 FR 10262, Feb. 24, 2011]

### **§ 502.135 Subpoena of Commission staff personnel, documents or things.**

(a) A subpoena for the attendance of Commission staff personnel or for the production of documentary materials in the possession of the Commission shall be served upon the Secretary. If the subpoena is returnable at hearing, a motion to quash may be filed within five (5) days of service and attendance shall not be required until the presiding officer rules on said motion. If the subpoena is served in connection with prehearing depositions, the procedure to be followed with respect to motions to quash and replies thereto will correspond to the procedures estab-

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lished with respect to motions and replies in § 502.132(c).

(b) The General Counsel shall designate an attorney to represent any Commission staff personnel subpoenaed under this section. The attorney so designated shall not thereafter participate in the Commission's decision-making process concerning any issue in the proceeding.

(c) Rulings of the presiding officer issued under § 502.135(a) shall become final rulings of the Commission unless an appeal is filed within ten (10) days after date of issuance of such rulings or unless the Commission, on its own motion, reverses, modifies, or stays such rulings within twenty (20) days of their issuance. Replies to appeals may be filed within ten (10) days. No ruling of the presiding officer shall be effective until twenty (20) days from date of issuance unless the Commission otherwise directs. [Rule 135.]

[49 FR 44369, Nov. 6, 1984, as amended at 76 FR 10262, Feb. 24, 2011]

### **§ 502.136 Enforcement.**

In the event of failure to comply with any subpoena or order issued in connection therewith, the Commission may seek enforcement as provided in § 502.210(b). [Rule 136.]

[49 FR 44369, Nov. 6, 1984, as amended at 76 FR 10262, Feb. 24, 2011]

## **Subpart J—Hearings; Presiding Officers; Evidence**

### **§ 502.141 Hearings not required by statute.**

The Commission may call informal public hearings, not required by statute, to be conducted under the rules in this part where applicable, for the purpose of rulemaking or to obtain information necessary or helpful in the determination of its policies or the carrying out of its duties, and may require the attendance of witnesses and the production of evidence to the extent permitted by law. [Rule 141.]