(adjustment evaluations) of this section and the petitioner has failed to provide the requested information, Staff may deny the petition if the requested information was reasonably available to the petitioner.

[Order 225, 47 FR 19022, May 3, 1982, as amended by Order 24–C, 50 FR 21596, May 28, 1985]

§ 385.1109 Orders (Rule 1109).

(a) Staff will issue a decision and an order granting or denying the petition in whole or in part. The order will articulate the basis for the decision, noting any dispute with the factual assertions of the petitioner.

(b) In addition to service otherwise required under this subpart, Staff will serve the decision and order on the persons who sought and were denied an opportunity to participate in the proceeding under this subpart.

(c) If Staff fails to issue an order granting or denying the petition for adjustment within the determination period, the petitioner may treat the application as having been denied and may, within 30 days after the close of the determination period, request review thereof as prescribed in Rule 1110(a) (review of denials). For purposes of this paragraph, ''determination period'' means the 150 days commencing with the filing of the petition, unless Staff for good cause extends such period.

(d) An order of Staff issued under paragraph (a) of this section granting an adjustment, in whole or in part, is final 30 days after it is issued, unless, during such 30-day period:

(1) A petition for review is filed under subpart J of this subchapter in accordance with Rule 1110(a) (review of denials) in which case the order is final when the review process under subpart J has been completed; or

(2) The Commission directs that the order be reviewed under subpart J in accordance with Rule 1110(b), in which case the order is final when the review process under subpart J has been completed unless the Commission expressly states that the order shall be effective pending review proceeding.

§ 385.1110 Review of initial decision and order for adjustment (Rule 1110).

(a) *General rule.* (1) Within 30 days after the issuance by Staff of an order granting or denying, in whole or in part, a petition for adjustment relief under this subpart, a person may file a petition for Commission review of that order in accordance with subpart J of this subchapter, if the person:

(i) Is aggrieved or adversely affected by that order; and

(ii) Participated, or sought and was denied an opportunity to participate, in the proceeding under this subpart.

(2) Except as otherwise provided in this paragraph, the provisions of subpart J other than Rule 1013 (attachments to pleadings) shall apply to Commission review of both grants and denials of adjustment petitions under this subpart.

(i) *Contested order* in subpart J means the order issued by Staff granting or denying, in whole or in part, a petition for adjustment under this subpart.

(ii) ''Staff'' is substituted for ''Secretary'' in subpart J. With respect to review of an order denying a petition for adjustment under this subpart, Staff may participate in the proceeding in the same manner prescribed for the Secretary in Rule 1005 (replies in reviews of adjustment denials). With respect to review of an order granting a petition for adjustment under this subpart, Staff may not participate in the proceeding except to the extent necessary to file the list identifying the documents in the record as prescribed in paragraph (a)(2)(iii). With respect to review of an order granting in part and denying in part a petition for adjustment under this subpart, Staff may participate as prescribed in Rule 1005(a)(1) (replies), only if a petition for review has been filed which specifically seeks review of the portion of the order denying the petition for adjustment.

(iii) Within 15 days of service of the petition for review, Staff must file with the Commission a list identifying each document in the record developed in the prior proceedings on the contested order, who filed the document, and the date it was filed.

(3) A motion to intervene under Rule 1005(c) (interventions in adjustment

proceedings) may be filed only by a person who sought and was denied an opportunity to participate, in the proceeding under this section. A person who did not file a motion to intervene in the Staff proceeding may file a motion for late intervention under Rule 214(d) (grant of late intervention).

(4) There is no exhaustion of administrative remedies until a request for review is filed under subpart J in accordance with this section and the review process under subpart J is completed by the issuance of an order granting or denying, in whole or in part, the relief requested.

(b) *Review initiated by the Commission.* Within 30 days after the issuance by Staff of an order granting, in whole or in part, a petition for adjustment relief under this subpart, the Commission may direct that the order be reviewed in a proceeding which, insofor as practicable, will conform to proceedings under subpart J. The order directing such review will specify the manner in which such proceeding will be conducted and the extent to which subpart J apply.

(c) *Separation of functions.* Any person who participated in the proceeding to review the grant or denial of that adjustment under this Rule as a witness or counsel may not advise the Commission concerning the review of the grant or denial of that adjustment.

[Order 225, 47 FR 19022, May 3, 1982; 48 FR 786, Jan. 7, 1983, as amended by Order 24–C, 50 FR 21596, May 28, 1985]

§ 385.1111 Conferences (Rule 1111).

Staff may direct that a conference be convened. The conference will be conducted by Staff in accordance with procedures Staff determines will most expeditiously further the purpose of the conference. A conference will be convened only after actual notice of the time, place and nature of the conference is provided to the parties. All parties may attend the conference. However, if a party wishes to present confidential information at the conference, Staff may exclude the other parties from that part of the conference when the confidential information is presented.

§ 385.1112 Requests for confidential treatment (Rule 1112).

(a) If a person filing a document under this subpart claims that some or all of the information contained in a document is exempt from the mandatory disclosure requirements of the Freedom of Information Act, or is otherwise exempt by law from public disclosure, that person may request confidential treatment of such information. At the time request is made for confidential treatment, the person must submit a copy of the document which contains the confidential information and two copies of the document which exclude the information for which confidential treatment is requested. The request for confidential treatment must describe the information deleted and specify the grounds for the claim for confidential treatment. The service requirements of Rule 2010 (service) are deemed satisfied if a copy of the document with the confidential information deleted is served.

(b) If a determination to disclose the information is made under part 388 (public information and requests), the person who has requested confidential treatment will be given notice thereof and will be afforded no less than 10 days to respond to such determination before the information is disclosed.

§ 385.1113 Interim relief (Rule 1113).

(a) The petitioner may at any time file a request for interim relief in a proceeding under this subpart, setting forth the legal and factual basis for the request. Service of such request must comply with the service requirements set forth in Rule 1104(b) (initial petition of adjustment request) and must be made on each person described in such rule as well as on any other party to the proceeding.

(b) The grounds for granting interim relief are:

(1)(i) A showing that irreparable injury will result in the event the interim relief is denied; and

(ii) A showing that denial of the interim relief requested will result in a more immediate special hardship or inequity to the person requesting the interim relief than the consequences that would result to other persons if the interim relief were granted; or