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York, or the associate chief judge in Atlanta, Georgia, as the case may be.

(d) The administrative law judge shall rule upon the admissibility of the deposition or any part thereof.

(e) All errors or irregularities in compliance with the provisions of this section shall be deemed waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is or, with due diligence, might have been ascertained.

(f) If the parties so stipulate in writing, depositions may be taken before any person at any time or place, upon any notice and in any manner, and when so taken may be used like other depositions.

(National Labor Relations Act approved July 5, 1935, 49 Stat. 449; 29 U.S.C. 151-166, as amended by Act of June 23, 1947 (61 Stat. 136; 29 U.S.C. Sup. 151-167), Act of Oct. 22, 1951 (65 Stat. 601; 29 U.S.C. 158, 159, 168), Act of Sept. 14, 1959 (73 Stat. 519; 29 U.S.C. 141-168), and Act of July 26, 1974 (88 Stat. 395-397; 29 U.S.C. 152, 158, 169, 183))

[24 FR 9102, Nov. 7, 1959, as amended at 45 FR 37425, June 3, 1980; 45 FR 51193, Aug. 1, 1980; 62 FR 1668, Jan. 13, 1997]

§ 102.31 Issuance of subpoenas; petitions to revoke subpoenas; rulings on claim of privilege against self-incrimination; subpoena enforcement proceedings; right to inspect and copy data.

(a) The Board, or any Member thereof, shall, on the written application of any party, forthwith issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence, including books, records, correspondence, or documents, in their possession or under their control. The Executive Secretary shall have the authority to sign and issue any such subpoenas on behalf of the Board or any Member thereof. Applications for subpoenas, if filed prior to the hearing, shall be filed with the Regional Director. Applications for subpoenas filed during the hearing shall be filed with the administrative law judge. Either the Regional Director or the administrative law judge, as the case may be, shall grant the application on behalf of the Board or any Member thereof. Applications for subpoenas may be made ex parte. The sub-

poena shall show on its face the name and address of the party at whose request the subpoena was issued.

(b) Any person served with a subpoena, whether ad testificandum or duces tecum, if he or she does not intend to comply with the subpoena, shall, within 5 days after the date of service of the subpoena, petition in writing to revoke the subpoena. The date of service for purposes of computing the time for filing a petition to revoke shall be the date the subpoena is received. All petitions to revoke subpoenas shall be served upon the party at whose request the subpoena was issued. Such petition to revoke, if made prior to the hearing, shall be filed with the regional director and the regional director shall refer the petition to the administrative law judge or the Board for ruling. Petitions to revoke subpoenas filed during the hearing shall be filed with the administrative law judge. Notice of the filing of petitions to revoke shall be promptly given by the regional director or the administrative law judge, as the case may be, to the party at whose request the subpoena was issued. The administrative law judge or the Board, as the case may be, shall revoke the subpoena if in its opinion the evidence whose production is required does not relate to any matter under investigation or in question in the proceedings or the subpoena does not describe with sufficient particularity the evidence whose production is required, or if for any other reason sufficient in law the subpoena is otherwise invalid. The administrative law judge or the Board, as the case may be, shall make a simple statement of procedural or other grounds for the ruling on the petition to revoke. The petition to revoke, any answer filed thereto, and any ruling thereon shall not become part of the official record except upon the request of the party aggrieved by the ruling.

(c) With the approval of the Attorney General of the United States, the Board may issue an order requiring any individual to give testimony or provide other information at any proceeding before the Board if, in the judgment of the Board, (1) the testimony or other information from such individual may be necessary to the public interest, and

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(2) such individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against selfincrimination. Requests for the issuance of such an order by the Board may be made by any party. Prior to hearing, and after transfer of the proceeding to the Board, such requests shall be made to the Board in Washington, DC, and the Board shall take such action thereon as it deems appropriate. During the hearing, and thereafter while the proceeding is pending before the administrative law judge, such requests shall be made to the administrative law judge. If the administrative law judge denies the request, his ruling shall be subject to appeal to the Board in Washington, DC, in the manner and to the extent provided in §102.26 with respect to rulings and orders by an administrative law judge, except that requests for permission to appeal in this instance shall be filed within 24 hours of the administrative law judge's ruling. If no appeal is sought within such time, or the appeal is denied, the ruling of the administrative law judge shall become final and his denial shall become the ruling of the Board. If the administrative law judge deems the request appropriate, he shall recommend that the Board seek the approval of the Attorney General for the issuance of the order, and the Board shall take such action on the administrative law judge's recommendation as it deems appropriate. Until the Board has issued the requested order no individual who claims the privilege against self-incrimination shall be required, or permitted, to testify or to give other information respecting the subject matter of the claim.

(d) Upon the failure of any person to comply with a subpoena issued upon the request of a private party, the general counsel shall, in the name of the Board but on relation of such private party, institute proceedings in the appropriate district court for the enforcement thereof, unless in the judgment of the Board the enforcement of such subpoena would be inconsistent with law and with the policies of the act. Neither the general counsel nor the Board shall be deemed thereby to have assumed responsibility for the effective

prosecution of the same before the court.

(e) Persons compelled to submit data or evidence at a public proceeding are entitled to retain or, on payment of lawfully prescribed costs, to procure copies or transcripts of the data or evidence submitted by them. Persons compelled to submit data or evidence in the nonpublic investigative stages of proceedings may, for good cause, be limited by the regional director to inspection of the official transcript of their testimony, but shall be entitled to make copies of documentary evidence or exhibits which they have produced.

[24 FR 9102, Nov. 7, 1959, as amended at 35 FR 18797, Dec. 11, 1970; 62 FR 9931, Mar. 5, 1997]

§ 102.32 Payment of witness fees and mileage; fees of persons taking depositions.

Witnesses summoned before the trial examiner shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance the witnesses appear and the person taking the deposition shall be paid by the party at whose instance the deposition is taken.

TRANSFER, CONSOLIDATION, AND SEVERANCE

§ 102.33 Transfer of charge and proceeding from region to region; consolidation of proceedings in same region; severance.

(a) Whenever the general counsel deems it necessary in order to effectuate the purposes of the Act or to avoid unnecessary costs or delay, he may permit a charge to be filed with him in Washington, DC, or may, at any time after a charge has been filed with a regional director pursuant to §102.10, order that such charge and any proceeding which may have been initiated with respect thereto:

(1) Be transferred to and continued before him for the purpose of investigation or consolidation with any other