

## CHAPTER 21. INTERCONNECTION AGREEMENTS FOR TELECOMMUNICATIONS SERVICE PROVIDERS

### Subchapter B. PLEADINGS, DOCUMENTS, AND OTHER MATERIALS.

#### §21.41. Motions.

- (a) **General requirements.** A motion must be in writing, unless the motion is made on the record at a prehearing conference or hearing. It must state the relief sought and the specific grounds supporting a grant of relief. If the motion is based upon alleged facts that are not a matter of record, the motion must be supported by an affidavit. Written motions must be served on all parties in accordance with §21.35 of this title (relating to Service of Pleadings and Documents).
- (b) **Time for response.** Unless otherwise provided by the presiding officer, commission rule, or statute, a responsive pleading, if made, must be filed by a party within five working days after receipt of the pleading to which the response is made.
- (c) **Rulings on motions.** The presiding officer must serve orders ruling on motions upon all parties, unless the ruling is made on the record in a hearing or prehearing conference open to the public.
- (d) **Motions for continuances and extensions.**
  - (1) **Generally.** Motions for continuance and for extension of a deadline must set forth the specific grounds for which the moving party seeks a continuance or an extension and must reference all other motions for continuance or extension filed by the moving party in the proceeding.
  - (2) **Standard of Review.** The moving party must show good cause with respect to the need for the continuance or extension.
    - (A) **Motions for Continuance.** The moving party must show good cause with respect to the need for a continuance. Motions for continuance will not be granted based on the need for discovery if the party seeking the continuance previously had the opportunity to obtain or compel discovery from the person from whom discovery is sought, except when necessary due to discovery abuses, surprise or discovery of facts or evidence which could not have been discovered previously through reasonably diligent effort by the moving party.
    - (B) **Motions for Extension.** Unless otherwise provided by statute, the time for filing any documents may be extended, upon the filing of a motion, prior to the expiration of the applicable period of time, showing that there is good cause for such extension of time and that the need for the extension is not caused by the neglect, indifference, or lack of diligence of the party making the motion.
  - (3) **Granting of motion.** The presiding officer may grant timely filed motions for continuance or extension agreed to by all parties provided that any applicable statutory deadlines are extended as necessary.
- (e) **Deadlines for motions for continuance.**
  - (1) Unless otherwise ordered by the presiding officer, motions for continuance of a prehearing conference, informal settlement conference, or discovery conference must be in writing and must be filed no less than two working days prior to the conference or hearing.
  - (2) Unless otherwise ordered by the presiding officer, motions for continuance of the hearing on the merits must be in writing and must be filed not less than three working days prior to the hearing. In addition to the requirements in paragraph (1) of this subsection, motions for continuance must state proposed dates for a rescheduled hearing.
  - (3) Untimely motions for continuance will be presumed to be denied. The moving party has the burden to show good cause for untimely filing.

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**(f) Modification of deadlines.**

- (1) Notwithstanding the requirements of subsections (b), (d), and (e) of this section, the deadlines for responses, objections and motions to compel may be modified by agreement of the affected parties, by filing a letter or other document evidencing the agreement no later than the date the responses, objections or motions to compel are due.
- (2) In the event the parties' agreed modification of a discovery deadline affects a scheduled discovery conference, parties must also comply with subsection (e) of this section.
- (3) Unless the parties show good cause for untimely filing of a modified deadline, the presiding officer may impose the original deadlines for subsequent filings.
- (4) In no event will the modification of discovery deadlines by agreement be allowed if such modification would affect a statutory deadline, unless the parties' agreed modification is accompanied by a written waiver and is approved by the presiding officer.