

Subchapter J. SUMMARY PROCEEDINGS.

§22.182. Summary Decision.

- (a) **Motion for summary decision.** The presiding officer, on motion by any party, may grant a motion for summary decision on any or all issues to the extent that the pleadings, affidavits, materials obtained by discovery or otherwise, admissions, matters officially noticed in accordance with §22.222 of this title (relating to Official Notice), or evidence of record show that there is no genuine issue as to any material fact and that the moving party is entitled to a decision in its favor, as a matter of law, on the issues expressly set forth in the motion.
- (b) **Filing and contents of motion.** Any party to a proceeding may move for summary decision on any or all of the issues. The motion must be filed before the close of the hearing on the merits or before the issuance of a proposal for decision or proposed order if no hearing is held, unless the time to file is extended by order of the presiding officer. The party filing the motion shall demonstrate that the issue or issues may be resolved by summary decision in accordance with the standard set forth in subsection (a) of this section. Affidavits in support of the motion shall be based on personal knowledge and shall set forth such facts as would be admissible in evidence. A motion for summary decision shall specifically describe the facts upon which the request for summary decision is based, the information and materials which demonstrate those facts, and the laws or legal theories that entitle the movant to summary decision.
- (c) **Response to motion.** Any response to a motion for summary decision shall be filed within the time set by the presiding officer. A party opposing the motion shall show, by affidavits, materials obtained by discovery or otherwise, admissions, matters officially noticed, or evidence of record, that there is a genuine issue of material fact for determination at the hearing, or that summary decision is inappropriate as a matter of law.
- (d) **Hearing on the motion.** If appropriate, the presiding office shall set the motion for hearing.
- (e) **No further hearing.** No further evidentiary hearing shall be held on issues for which summary decision has been granted.
- (f) **Action on the motion by administrative law judge.** The administrative law judge must issue a proposal for decision if all issues will be resolved by summary decision. The administrative law judge may issue an interim order or a proposal for interim decision if some, but not all, issues will be resolved by summary decision. Such a partial summary decision may result if the motion for summary decision does not include all issues or, if the motion does include all issues, the administrative law judge grants summary decision on some issues and denies summary decision on other issues. Parties may file exceptions and replies to exceptions to a proposal for interim decision recommending resolution of issues by summary decision. An interim order issued by the administrative law judge granting partial summary decision is subject to appeal or reconsideration under §22.123 of this title (relating to Appeal of an Interim Order and Motions for Reconsideration of Interim Order Issued by the Commission).
- (g) **Action on the motion by the commission.** If all issues will be resolved by summary decision, the commission will issue an order that is subject to motions for rehearing under §22.264 of this title (relating to Motions for Rehearing). An interim order issued by the commission granting partial summary decision is subject to reconsideration under §22.123 of this title.