

Subchapter N. DECISION AND ORDERS.

§22.262. Commission Action After a Proposal for Decision.

- (a) **Commission Action.** The commission may change a finding of fact or conclusion of law made by the administrative law judge or vacate or modify an order issued by the administrative law judge only if the commission:
 - (1) determines that the administrative law judge:
 - (A) did not properly apply or interpret applicable law, commission rules or policies, or prior administrative decisions; or
 - (B) issued a finding of fact that is not supported by a preponderance of the evidence; or
 - (2) determines that a commission policy or a prior administrative decision on which the administrative law judge relied is incorrect or should be changed.

- (b) **Reasons to Be in Writing.** The commission shall state in writing the specific reason and legal basis for its determination under subsection (a) of this section.

- (c) **Remand.** The commission may remand the proceeding for further consideration.
 - (1) The commission may direct that further consideration by an administrative law judge be accomplished with or without reopening the hearing and may limit the issues to be considered.
 - (2) If, on remand, additional evidence is admitted that results in a substantial revision of the proposed decision or the underlying facts, an amended or supplemental proposal for decision or proposed order shall be prepared. If an amended or supplemental proposal for decision is prepared, the provisions of §22.261(d) of this title (relating to Proposal for Decision) apply. Exceptions and replies shall be limited to discussions, proposals, and recommendations in the supplemental proposal for decision.

- (d) **Oral Argument Before the Commission.**
 - (1) Any party may request oral argument before the commission prior to the final disposition of any proceeding.
 - (2) Oral argument shall be allowed at the discretion of the commission. The commission may limit the scope and duration of oral argument. The party bearing the burden of proof has the right to open and close oral argument.
 - (3) A request for oral argument shall be made in a separate written pleading, filed with the commission's filing clerk. The request shall be filed no later than 3:00 p.m. on the seventh working day preceding the date upon which the commission is scheduled to consider the case.
 - (4) Upon the filing of a motion for oral argument, the Policy Development Division shall send separate ballots to each commissioner to determine whether the commission will hear oral argument at an open meeting. An affirmative vote by one commissioner is required to grant oral argument. Not more than two days before the commission is scheduled to consider the case, the parties may contact the Policy Development Division to determine whether a request for oral argument has been granted.
 - (5) The absence or denial of a request for oral argument shall not preclude the commissioners from asking questions of any party present at the open meeting.

- (e) **Commission Not Limited.** This section does not limit the commission in the conduct of its meetings to the specific types of action outlined in this section.