



## Ohio Administrative Code Rule 4901-1-15 Interlocutory appeals.

Effective: June 15, 2014

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(A) Any party who is adversely affected thereby may take an immediate interlocutory appeal to the commission from any ruling issued under rule 4901-1-14 of the Administrative Code or any oral ruling issued during a public hearing or prehearing conference that does any of the following:

- (1) Grants a motion to compel discovery or denies a motion for a protective order.
- (2) Denies a motion to intervene, terminates a party's right to participate in a proceeding, or requires intervenors to consolidate their examination of witnesses or presentation of testimony.
- (3) Refuses to quash a subpoena.
- (4) Requires the production of documents or testimony over an objection based on privilege.

(B) Except as provided in paragraph (A) of this rule, no party may take an interlocutory appeal from any ruling issued under rule 4901-1-14 of the Administrative Code or any oral ruling issued during a public hearing or prehearing conference unless the appeal is certified to the commission by the legal director, deputy legal director, attorney examiner, or presiding hearing officer. The legal director, deputy legal director, attorney examiner, or presiding hearing officer shall not certify such an appeal unless he or she finds that the appeal presents a new or novel question of interpretation, law, or policy, or is taken from a ruling which represents a departure from past precedent and an immediate determination by the commission is needed to prevent the likelihood of undue prejudice or expense to one or more of the parties, should the commission ultimately reverse the ruling in question.

(C) Any party wishing to take an interlocutory appeal from any ruling must file the interlocutory appeal with the commission within five days after the ruling is issued. An extension of time for the filing of an interlocutory appeal may be granted only under extraordinary circumstances. The interlocutory appeal shall set forth the basis of the appeal and citations of any authorities relied upon. A copy of the ruling or the portion of the record that contains the ruling shall be attached to the



interlocutory appeal. If the record is unavailable, the interlocutory appeal must set forth the date the ruling was issued and must describe the ruling with reasonable particularity.

(D) Unless otherwise ordered by the commission, any party may file a memorandum contra within five days after the filing of an interlocutory appeal.

(E) Upon consideration of an interlocutory appeal, the commission may, in its discretion either:

(1) Affirm, reverse, or modify the ruling.

(2) Dismiss the appeal, if the commission is of the opinion that the issues presented are moot, the party taking the appeal lacks the requisite standing to raise the issues presented or has failed to show prejudice as a result of the ruling in question, or the issues presented should be deferred and raised at some later point in the proceeding.

(F) Any party that is adversely affected by a ruling issued under rule 4901-1-14 of the Administrative Code or any oral ruling issued during a public hearing or prehearing conference and that (1) elects not to take an interlocutory appeal from the ruling or (2) files an interlocutory appeal that is not certified by the attorney examiner may still raise the propriety of that ruling as an issue for the commission's consideration by discussing the matter as a distinct issue in its initial brief or in any other appropriate filing prior to the issuance of the commission's opinion and order or finding and order in the case.