WEST VIRGINIA CODE: §24-1-9

§24-1-9. Recommended decision by hearing commissioner, hearing examiner or panel.

(a) Any order recommended by a single hearing commissioner, a hearing examiner or a panel consisting of a hearing examiner and a single commissioner with respect to any matter referred for hearing shall be in writing and shall set forth separately findings of fact and conclusions of law, which findings of fact shall make specific reference to the evidence in the record which supports such findings and shall be filed with the commission. A copy of such recommended order shall be served upon the parties who have appeared in the proceeding.

(b) Before any order is recommended, the parties shall be afforded an opportunity to submit, within the time prescribed by the hearing commissioner, hearing examiner or panel, proposed findings of fact and conclusions of law and briefs.

(c) The commission shall serve a copy of the recommended order on the parties by one of the following means:

(1) By U.S. mail; or

(2) By electronic transmission: *Provided*, That the party has the capability to receive the electronic transmission, has furnished an electronic address and has agreed in writing to accept recommended orders electronically. Electronic transmissions shall contain a "return receipt" or "read receipt" mechanism to assure that a recommended order was received by the party: *Provided, however*, That if the commission does not receive a confirmatory electronic transmission acknowledging the recommended order was received by the party, via return receipt, read receipt or electronic mail, within three business days of service, the commission shall serve the recommended order by U.S. mail.

(d) Service is complete when the recommended order is placed in the mail or transmitted electronically to the party.

(e) Within the time prescribed, the parties shall be afforded an opportunity to file exceptions to the recommended order and a brief in support, provided the time fixed is not less than fifteen days from the date of service of such recommended order.

(f) In all proceedings in which exceptions have been filed to a recommended order, the commission, before issuing its final order, may afford the parties an opportunity for oral argument. When exceptions are filed, the commission shall consider the exceptions. If sufficient reason appears for the exceptions, the commission may grant the review or make an order or hold or authorize further hearings or proceedings. The commission, after review, upon the whole record, or as supplemented by a further hearing, shall decide the matter in controversy and make appropriate order thereon.

www.legislature

(g) When no exceptions are filed within the time specified, the recommended order shall become the order of the commission five days following the expiration of the period for filing exceptions unless the order is stayed or postponed by the commission: *Provided*, That the commission may, on its own motion before the order becomes the order of the commission, review any matter and take action as if exceptions had been filed.

(h) The commission, a hearing commissioner, a hearing examiner or panel to whom a matter is referred may expedite the hearing and decision of any case, if the public interest requires, by the use of pretrial conferences, stipulations and agreements, prepared testimony, depositions, daily transcripts of evidence, trial briefs and oral argument in lieu of briefs.

WV Legislature