

**7831.0500 PRELIMINARY DETERMINATION ON ELIGIBILITY.**

Subpart 1. **Required determinations.** Within 45 days of receiving a request under part 7831.0300, the commission shall issue a preliminary determination addressing whether the applicant is eligible for an award of compensation of intervenor costs. The determination must address:

A. whether the commission considers the applicant to be an intervenor as defined in part 7831.0100, subpart 9; and

B. whether the applicant has made a sufficient showing that, but for an award of compensation for all or part of its intervenor costs, it has insufficient financial resources to intervene and participate fully and effectively in the proceeding, assuming all information in the request filing is true and accurate pending an audit that may be required under part 7831.0700, and pending a decision awarding or denying compensation under part 7831.0800.

Subp. 2. **Discretionary determinations.** The determination on eligibility may also, but is not required to:

A. address whether the applicant has demonstrated its ability to materially assist the commission in its proposed statement of participation, assuming its accuracy, under part 7831.0300, subpart 5;

B. address whether the application lists duplicate positions taken or presentations made by intervenors, or whether they may be more economically or efficiently presented under common representation;

C. recommend use of common legal representation or expert witnesses in cooperation with other applicants or participants;

D. provide a listing of other known applicants and participants advocating or proposing substantially similar positions or presentations;

E. point out any unrealistic expectations for compensation; or

F. address any other information that may affect an applicant's claim for an award of compensation for intervenor costs.

Subp. 3. **Effect of preliminary determination on eligibility.** A preliminary determination on eligibility does not guarantee either a grant or a denial of an award of compensation for intervenor costs. If a preliminary determination is not made on a discretionary factor in subpart 2, items A to F, no presumption arises regarding that factor.

A. After a preliminary determination granting compensation for intervenor costs, the commission must overcome in an applicant's claim for compensation a presumption, for

the reasons stated in the preliminary determination, that the applicant should be granted an award of compensation for intervenor costs.

B. After a preliminary determination denying compensation, an applicant may elect to intervene and may intervene if granted permission by the commission or presiding officer. If, however, the applicant does intervene, the applicant must overcome in the claim for compensation a presumption, for the reasons stated in the preliminary determination, that the applicant should be denied an award of compensation for intervenor costs.

**Statutory Authority:** *MS s 237.075; Laws 2007 c 57 art 3 s 40*

**History:** *15 SR 1599*

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