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Appeals Concerning Compensation for Outdoor Advertising Structures

Sec. 4b-3(f)-1. Definitions

(a) For the purposes of section 4b-3(f)-2 to section 4b-3(f)-11, inclusive, of the Regulations of State Agencies:

(1) “Contested case” means “contested case” as defined in section 4-166 of the Connecticut General Statutes.

(2) “Final decision” means “final decision” as defined in section 4-166 of the Connecticut General Statutes.

(3) “Hearing officer” means “hearing officer” as defined in section 4-166 of the Connecticut General Statutes.

(4) “Intervenor” means “intervenor” as defined in section 4-166 of the Connecticut General Statutes.

(5) “Party” means “party” as defined in section 4-166 of the Connecticut General Statutes.

(6) “Person” means “person” as defined in section 4-166 of the Connecticut General Statutes.

(7) “Presiding officer” means “presiding officer” as defined in section 4-166 of the Connecticut General Statutes.

(8) “Proposed final decision” means “proposed final decision” as defined in section 4-166 of the Connecticut General Statutes.

(9) “Petitioner” means any person aggrieved by determination of the amount of compensation paid pursuant to subsection (b) of section 8-273a of the Connecticut General Statutes for the acquisition of an outdoor advertising structure.

(10) “Board” means the State Properties Review Board, and unless the context indicates otherwise, including a designee appointed by the Board to conduct a hearing.

(11) “Commissioner” means the Commissioner of Transportation as defined in section 13a-1 of the Connecticut General Statutes.

(12) “Determination” means a determination by the Commissioner of the amount of compensation to be paid pursuant to subsection (b) of section 8-273a of the Connecticut General Statutes for the acquisition of an outdoor advertising structure.

(Adopted effective May 11, 2009)

Sec. 4b-3(f)-2. Scope and applicability

(a) Unless otherwise provided by law, this regulation governs all appeals, pursuant to section 8-273a(b) and section 4b-3(f) of the Connecticut General Statutes, to be heard by the Board in the disposition of an appeal by any Petitioner aggrieved by a Determination made by the Commissioner.

(b) Notwithstanding the action of any person acting as its agent, the Board shall retain its authority to take any action authorized by law, including the authority to take any action a presiding officer may take. Any action of the Board shall preempt the action of a hearing officer or other agent of the Board.

(Adopted effective May 11, 2009)

Sec. 4b-3(f)-3. Powers and duties of the board

(a) The Board shall conduct a fair and impartial hearing, assure that the relevant facts are fully elicited, adjudicate issues of law and fact, and prevent delay and harassment.

(b) Pursuant to section 4-176e of the Connecticut General Statutes, the Board shall have the authority to appoint one or more persons to serve as a hearing officer in a contested case.

(c) In addition to any other powers provided by law, the Board or its designee shall have the power to:

- (1) determine the scope of the hearing;
- (2) dispose of motions and requests and make all necessary or appropriate rulings;
- (3) administer oaths and affirmations;
- (4) subpoena witnesses and evidence, examine witnesses, and control the examination of witnesses;
- (5) admit or exclude evidence and rule on objections to evidence;
- (6) impose sanctions in accordance with subsection (d) of this section;
- (7) consolidate proceedings or portions thereof;
- (8) issue final decisions, or as appropriate, proposed final decisions; and
- (9) take other measures appropriate to administer this section, expedite proceedings, and maintain order.

(d) **Sanctions**

If a party or intervenor or the attorney or other representative of a party or intervenor fails to comply with section 4b-3(f)-1 to section 4b-3(f)-10, inclusive governing the conduct of hearings or with a ruling of the Board, the Board may, on motion or on its own initiative, impose the following sanctions: continue or terminate the proceeding, exclude testimony or other evidence, and draw an adverse inference against the non-complying party or intervenor.

(e) **Preservation of evidence**

The Board may provide by any appropriate means, including the taking of oral testimony by deposition, for the preservation of relevant and material evidence when the Board determines that there is a serious likelihood that such evidence will be unavailable at the time of a hearing.

(Adopted effective May 11, 2009)

Sec. 4b-3(f)-4. Commencement and conclusion of proceedings

(a) Pursuant to section 8-273a(4) of the Connecticut General Statutes, a proceeding commences when the Board receives an appeal from a person aggrieved by a Determination of the Commissioner. An appeal to the Board shall constitute a contested case.

(b) An appeal shall state specifically any findings to which the Petitioner objects and any other grounds for contesting the Commissioner's determination. An appeal shall also include a copy of any written determination made by the Commissioner, and any exhibits made a part thereof. The Board may require a more particular statement from the Petitioner if an appeal does not give adequate information concerning the grounds for contesting the Commissioner's determination.

(c) **Filing, service, and form of appeal**

(1) The original of any appeal which is required or allowed to be filed under this section shall be filed with the Board. The original and any subsequent information regarding an appeal shall be either hand delivered or sent to the Board by certified mail, return receipt requested.

(2) The first page of every appeal shall contain a caption identifying the Petitioner and the location of the outdoor advertising structure or any other designation prescribed by the Board.

(3) Every appeal shall be signed by the Petitioner filing or by his attorney or other representative, if any. The signature constitutes a representation by the signer that he has read the appeal, that to the best of his knowledge, information and belief the statements made therein are true and complete, and that the appeal is not filed for the purpose of delay or harassment.

(4) An appeal filed by any Petitioner shall contain the name, address, telephone number, facsimile and email address of the person filing and of his attorney or other representative, if any. Any change in this information shall, within seven days after such person becomes aware of such change, be communicated in writing to the Board and to all persons upon whom an appeal shall be served under subdivision (5) of this subsection.

(5) A copy of every appeal shall be served personally or by mail upon the Commissioner. Every appeal filed shall be accompanied by a certification in substantially the following form:

I [name of Petitioner or representative] hereby certify that a copy hereof was [personally delivered] [mailed in a properly addressed, first-class postage pre-paid envelope] on [date] to the Commissioner of Transportation at the following address:

[signature of person making service]

(6) Service of a copy of an appeal shall be complete upon personal delivery or mailing.

(7) The date of the filing of any appeal required or allowed under this section shall be the date such appeal is received by the Board.

(8) The Board may reject any filing for failure to comply with any requirement of this subsection.

(d) Commissioner’s response

Within fifteen (15) days of receipt of a copy of an appeal being delivered to the Commissioner, the Commissioner shall respond and answer the allegations contained in the appeal.

(Adopted effective May 11, 2009)

Sec. 4b-3(f)-5. Scheduling hearings and settlement conferences

(a) The Board may, upon the filing of an appeal under section 4b-3(f)-3(c), solicit comments from the parties and intervenors concerning an appropriate date and location for a hearing. Upon receipt of comments, the Board shall set a date for hearing within a reasonable time, giving the Board such time as is necessary and convenient, depending upon the nature, purpose, and circumstances of each appeal.

(b) Upon scheduling the hearing, the Board shall mail notice of the time, place, and nature of the hearing to all parties and intervenors and to any person who has filed a request for status as a party or intervenor but whose request has not yet been disposed of.

(c) Upon scheduling the hearing, the Board may schedule a settlement conference. The purpose of a settlement conference shall be to determine whether an appeal can be resolved without a hearing and to facilitate such a resolution.

(d) If the Board determines during the settlement conference that resolution of the dispute without a hearing is likely, it may reschedule the hearing.

(e) Each party and intervenor shall appear at any settlement conference which is scheduled. If any party fails without good cause to appear, the Board may proceed with the conference.

(f) At least one of the attorneys or other representatives for each party and intervenor participating in the settlement conference shall have authority to enter

into agreements and stipulations regarding all matters that the participants should reasonably anticipate may be discussed at the settlement conference.

(g) Nothing in this subsection shall preclude the Board from meeting, whether on request or on its own initiative, with the parties and intervenors at any time for the purpose of facilitating settlement.

(h) Neither a settlement conference nor a hearing shall be continued at the request of a party or intervenor except upon motion demonstrating that there is good cause for a continuance. Any continuance granted shall be for a specific length of time.

(Adopted effective May 11, 2009)

Sec. 4b-3(f)-6. Intervention

(a) A person shall be granted status as an intervening party if:

(1) a statute confers a right to such status, provided that any conditions for party status specified in such statute have been satisfied; or

(2) such person has filed a written request stating facts which demonstrate that:

(A) such person's legal rights, duties or privileges will or may reasonably be expected to be affected by the decision in the proceeding;

(B) such person will or may reasonably be expected to be significantly affected by the decision in the proceeding; or

(C) such person's participation is necessary to the proper disposition of the proceeding.

(b) A person may be granted status as an intervenor if such person has filed a written request stating facts which demonstrate that such person's participation is in the interests of justice and will not impair the orderly conduct of the proceeding.

(c) A request for status as a party or intervenor under this subsection shall be filed no later than five days before the date of the first scheduled hearing, if one has been scheduled, except that such five-day requirement may be waived by the Board at any time before or after the commencement of the hearing for good cause shown. The request shall be served upon all parties and intervenors and any person known to have filed a request for status as a party or intervenor but whose request has not yet been disposed of.

(d) Unless otherwise provided by the Board, any objections to a request for party or intervenor status shall be filed within seven days of the service of the request for party or intervenor status.

(e) A ruling on a request for status as a party or intervenor shall be provided to the person filing the request, all parties and intervenors, and any person who has filed a request for status as a party or intervenor but whose request has not yet been disposed of.

(f) The Board may restrict the participation of a person granted intervenor status under subdivision (b) of this subsection, although only to the extent necessary to promote justice and the orderly conduct of the proceeding. If a request for intervenor status under subdivision (b) of this subsection is granted, the Board shall in its ruling on the request define (1) the issues with respect to which the intervenor may participate and (2) the intervenor's rights to introduce evidence and offer argument, and to cross-examine witnesses. The Board may at any time amend its initial ruling concerning an intervenor's participation.

(g) Except for good cause shown, a person granted status as a party or intervenor under this subsection is bound by the Board's rulings issued as of the time such person files a request for party or intervenor status. Unless otherwise restricted pursuant to section 4b-3(f)-6, after a person's request for party or intervenor has

been granted, such person shall have the same rights, obligations, and privileges as all other parties and intervenors.

(Adopted effective May 11, 2009)

Sec. 4b-3(f)-7. Hearings

(a) Media

Any hearing conducted pursuant to this section which is open to the public may be recorded, photographed, broadcast, or recorded for broadcast in accordance with the provisions of subsection (a) of section 1-226 of the Connecticut General Statutes, provided the hearing is not so disturbed as to impair any person's ability to hear or be heard or to present evidence or argument. In order to minimize disruption of a hearing, the hearing officer or Board may impose reasonable limits on any person engaged in recording, photographing, broadcasting, or recording for broadcast.

(b) Attendance

Any person who attends a hearing conducted pursuant to this section but who is not a party or a witness for a party and who does not intend to speak shall not be required to give his name or any other information or to satisfy any condition precedent to his attending the hearing.

(c) Recording of hearings

Hearings conducted pursuant to this section shall be recorded either stenographically or electronically. The recording of a hearing or any part thereof shall be transcribed by or through the Board on request of any person, provided such person shall pay the cost of transcription and recording. Subject to the reasonable control of the Board, a party or an intervenor may record any portion of a hearing in which the Board participates. Settlement discussions conducted under section 4b-3(f)-4(c) do not constitute a portion of a hearing under this section and shall not be recorded unless all of the participants in such discussions consent to recording, and the Board concurs.

(d) Suspension and reconvening of hearings

Except as provided in section 4b-3(f)-4(h) and section 4b-3(f)-9(b)(3)(B), the Board, as it deems appropriate, may continue a hearing to another time and place.

(e) Disruption of hearings

If any person disrupts a hearing or otherwise interferes with the orderly conduct of such hearing, the Board may order such person to leave such hearing or may suspend the hearing and reconvene it at an appropriate place and time.

(f) Representatives

A party or intervenor may appear in person or by an attorney or other representative. Attorneys shall conform to the standards of conduct and ethics required of practitioners before the courts of Connecticut.

(g) Motions

(1) A motion is any request to the Board.

(2) All motions shall (A) be in writing unless made orally on the record, (B) state with particularity the grounds therefore, and (C) set forth the relief or ruling sought.

(3) Within seven days of service of a written motion or such other time as the Board may prescribe, any party or intervenor may file a response supporting or opposing the motion. The movant shall have no right to reply except as permitted by the Board.

(h) Notices to appear and subpoenas for hearing

(1) A party or intervenor may compel the appearance at a hearing of, or the production of documents at a hearing by, another party or intervenor by serving upon such party or intervenor a notice to appear or produce. The notice, if a notice

to produce, shall state with particularity the documents which are to be produced. A copy of a notice served under this subdivision shall be filed concurrently with the Board. Except for good cause shown, a notice under this subdivision shall be ineffective unless it is received by the Board or the person to whom it is directed at least five days before the time designated in the notice to appear or produce.

(2) A party or intervenor may compel the appearance at a hearing of, or the production of documents at a hearing by, any person who is not a party or intervenor by the issuance of a subpoena in accordance with the following:

(A) If the party or intervenor is represented by an attorney, the attorney may issue such subpoena pursuant to section 51-85 of the Connecticut General Statutes. To prevent harassment or unnecessary inconvenience to a subpoenaed witness, the Board may exclude the testimony of such a witness if he or she did not receive the subpoena at least five days before the time designated therein to appear or produce.

(B) If the party or intervenor is not represented by an attorney, he or she may move the Board or, if the Board has designated another person to conduct the hearing, he or she may move such other person to issue a subpoena requiring the appearance of the person or the production of the documents at the hearing. Except for good cause shown, such a motion shall be filed no later than 14 days before the hearing commences. Such a motion shall include the name and address of the person and a description of any documents to be subpoenaed, and shall state the reason for the motion. Unless the requested subpoena would be subject to quashing under subdivision (9) of this subsection and unless the Board or its designee finds that the testimony or documents sought are clearly inadmissible, he or she shall issue the subpoena and mail or deliver it to the party or intervenor requesting it, which party or intervenor shall arrange for its service. Except for good cause shown, a subpoena issued under this subparagraph shall be ineffective unless it is received by the person to whom it is directed no later than five days before the hearing commences.

(3) A subpoena issued by the Board or its designee shall contain the name of the Board and the title and docket number of the proceeding, and shall command the person to whom it is directed to appear and/or to produce specified documents at a designated time and place.

(4) Upon notice to the parties and intervenors, the Board or its designee may on its own initiative issue a notice or subpoena requiring the appearance of a party, intervenor, or other person or the production of documents at a hearing. The form and service of such notice or subpoena shall be as described in subdivision (1) or (3), as the case may be, of this subsection, and such notice or subpoena shall be subject to the provisions of subdivision (5) of this subsection.

(5) On motion made or on his or her own initiative, the Board or its designee may: (A) quash, modify, or issue a protective order with respect to a subpoena to appear or produce if such notice or subpoena is unreasonable or requests evidence that is irrelevant or immaterial or (B) condition denial of the motion on such terms as the Board or its designee deems appropriate.

(6) A subpoena to appear or produce issued by the Board or its designee shall advise that such subpoena may be quashed, modified, or subjected to a protective order in accordance with subdivision (5) of this subsection.

(7) A notice to appear or produce shall be personally served by a sheriff or other indifferent person or by certified mail, return receipt requested. A subpoena to appear or produce issued by the Board or its designee shall be personally served by a sheriff or other indifferent person.

(8) If any party or intervenor fails to comply with a notice to appear or produce, the Board or its designee may impose sanctions in accordance with subsection (d) of section 4b-3(f)-2. If any person fails to comply with a subpoena issued by the Board, the Board may apply to the superior court for enforcement of the subpoena in accordance with section 4-177b of the Connecticut General Statutes.

(9) A subpoena or notice to appear directed to any member of the Board shall be quashed unless there is a clear showing by the party or intervenor who served the notice to appear or on whose behalf the subpoena was issued that such member of the Board has personal knowledge of relevant and material facts, that no other person has knowledge of such facts, and that it would work an injustice if such member of the Board did not testify.

(i) **Prehearing conferences**

(1) The Board may encourage prehearing conferences to simplify the hearing and aid in a speedy and fair disposition of the proceeding. To those ends, the Board may, on motion or on its own initiative, schedule and hold a prehearing conference among the parties and intervenors to:

(A) clarify and simplify the factual issues for hearing, identify the legal issues in dispute, and determine whether any legal issues should be briefed before the hearing;

(B) stipulate to facts and the admissibility of testimony and other evidence;

(C) identify and, as appropriate, limit witnesses to be called and documents to be offered at the hearing, and identify the matters about which each witness will testify;

(D) mark exhibits to be admitted or offered into evidence; and

(E) take such other actions as may aid in the orderly and expeditious disposition of the proceeding.

(2) The prehearing conference shall, unless impracticable, be held at least fourteen (14) days before the hearing commences.

(3) Each party and intervenor shall appear at the prehearing conference. If any party or intervenor fails without good cause to appear, the Board may proceed with the conference and may make decisions concerning all matters for which the conference was scheduled, which decisions shall bind all parties and intervenors.

(4) At least one of the attorneys or other representatives for each party and intervenor participating in the prehearing conference shall have authority to enter into stipulations and to make admissions regarding all matters that the participants should reasonably anticipate may be discussed at the prehearing conference.

(5) After the prehearing conference, the Board may, and at the request of any party or intervenor shall, issue a prehearing conference order reciting the actions taken at the prehearing conference. The prehearing conference order shall, unless modified by the Board on the record, control the subsequent course of the proceeding. A prehearing conference order shall be modified only for good cause.

(6) If no appearance is made by or on behalf of a party or intervenor at a prehearing conference, or if a party or intervenor or his attorney or other representative is substantially unprepared or is unauthorized to participate fully in the conference or fails to participate in good faith, or if a party or intervenor or his attorney or other representative fails to obey a prehearing conference order, the Board may impose sanctions in accordance with subsection (d) of section 4b-3(f)-2 or may grant an appropriate continuance to any party or intervenor prejudiced by the disobedience, or both.

(j) Advance submission of proposed evidence

(1) In a proceeding on an appeal, the Petitioner shall, regardless whether a prehearing conference is held and unless an earlier filing is required by the Board or a later filing is allowed for good cause shown, file no later than fifteen (15) days before the hearing:

(A) a copy of all documents which the Petitioner plans to offer into evidence at the hearing;

(B) a list of witnesses the Petitioner plans to call at the hearing and a summary of the matters about which each witness will testify; and

(C) for each expert witness the Petitioner plans to call, a resume and a statement of the facts and opinions about which the expert will testify and a summary of the grounds for each opinion.

At the time the Petitioner files the foregoing papers, he or she shall serve a copy thereof on all parties and intervenors.

(2) Prior to any hearing the Board may, on motion or its own initiative, direct any party or intervenor to file before the hearing the following materials, provided that a party or intervenor planning to offer written testimony on direct examination shall be required to file such testimony no later than ten days before the hearing:

(A) a copy of all documents which the party or intervenor plans to offer into evidence at the hearing;

(B) a list of witnesses the party or intervenor plans to call at the hearing and a summary of the matters about which each witness will testify;

(C) for each expert witness the party or intervenor plans to call, a resume and a statement of the facts and opinions about which the expert will testify and a summary of the grounds for each opinion; and

(D) any other or additional material.

(3) Upon objection by a party or intervenor, the Board shall not admit into evidence any document or testimony which was not submitted or identified before the hearing in accordance with subdivision (1) or a ruling under subdivision (2) of this subsection unless the party or intervenor offering the document or testimony demonstrates good cause for the failure to submit or identify it earlier. If the Board admits such document or testimony, he or she may grant an appropriate continuance to any party or intervenor prejudiced thereby.

(k) Oaths

The Board shall administer an oath or affirmation, in accordance with Chapter 4 of the Connecticut General Statutes, to each witness before any evidence is taken from such witness.

(l) Evidence, objections, offers of proof

(1) Evidence shall be received in accordance with section 4-178 of the Connecticut General Statutes. The Board shall not admit any evidence which is irrelevant, immaterial, unduly repetitious, untrustworthy, or unreliable.

(2) Subject to the reasonable control of the Board, all parties shall have the right to cross-examine any witness.

(3) The Board may admit into evidence, in lieu of oral testimony on direct examination, a written statement of fact or opinion prepared by a witness, provided that any requirements for prehearing submission of documents have been satisfied. The admissibility of the contents of the statement shall be subject to the same evidentiary rules as if such contents were presented as oral testimony. Before any such statement is read or admitted into evidence, the witness shall provide a copy of the statement to the Board, the court reporter if there is one, and all parties and

intervenors. The witness presenting the statement shall swear to or affirm the statement and shall be subject to cross-examination on the contents thereof.

(4) Any objection to the admission of evidence shall be supported by a concise statement of the grounds therefore. The Board's ruling on the objection shall be part of the record.

(5) Whenever evidence is excluded, the party or intervenor offering the evidence may make an offer of proof. An offer of proof for excluded testimony shall consist, at the discretion of the Board, of either the excluded testimony or a summary thereof. An offer of proof for excluded documents shall consist of the insertion in the record of the documents excluded. At the discretion of the Board, an offer of proof may be subject to cross-examination.

(m) Failure to appear

If a Petitioner fails to appear at a scheduled hearing, the Board shall at its discretion deem an appeal to be withdrawn and any right to hearing waived, or alternatively, make its final decision on the basis of information previously submitted by the Petitioner. The Petitioner may, within no more than fourteen (14) days after the scheduled hearing date, move the Board to reopen the proceeding. Any such motion shall be denied unless the movant demonstrates that there was compelling reason for his or her failure to appear.

(Adopted effective May 11, 2009)

Sec. 4b-3(f)-8. The record

(a) In addition to the items specified in section 4-177(d) of the Connecticut General Statutes, for the purposes of a Board proceeding the record shall include:

(1) a copy of the appeal and all appearances,

(2) any briefs or exceptions filed before or after issuance of the proposed final decision, and

(3) any correspondence between the Board and any party, intervenor, or other person concerning the proceeding.

(b) The evidentiary record shall be maintained separately from the rest of the record. The evidentiary record shall consist, in addition to the recording of the hearing, of all documents offered into evidence (exhibits), regardless whether they are admitted. Exhibits which are not admitted shall be marked "for identification."

(c) The Board shall not deem a transcript of a hearing to be part of the record, and shall not transmit a transcript of a hearing to the superior court in the event of an appeal from a Board proceeding, unless such transcript was prepared by or through the Board and the sealed original of such transcript, if not prepared by the Board, was delivered directly by the transcriber to the Board.

(d) New evidence

Unless the Board rules otherwise, after all evidentiary hearings have concluded, no further evidence shall be admitted unless it is relevant and material and there was good cause for the failure to offer it at a hearing. Whenever new evidence is admitted after hearings have concluded, the other parties and intervenors shall be allowed an opportunity to respond to the evidence, including, if appropriate, an opportunity to cross-examine the person offering the evidence. Nothing in this subsection shall affect the provisions and requirements of section 4b-3(f)-9.

(e) Post-hearing legal submissions

The Board may require or allow the parties and intervenors to file post-hearing briefs and proposed findings of fact and conclusions of law. Any assertions of fact

in such briefs and findings should be supported by reference to specific portions of the evidentiary record supporting any such assertion(s).

(Adopted effective May 11, 2009)

Sec. 4b-3(f)-9. Final decision

(a) Conclusion of appeal

For purposes of section 4b-3(f) of the Connecticut General Statutes, the Board shall be deemed to have heard an appeal, or an appeal shall be deemed concluded on the latter of (1) the date on which the last item of evidence is admitted into the record, (2) the date on which any post hearing legal submissions are accepted by the Board, or (3) the date by which the Board has heard all parties in connection with a proposed final decision.

(b) Within thirty (30) days after the conclusion of an appeal, as defined subsection (a) of this section, the Board shall issue a final decision, and the written decision of the Board shall be a final decision for the purposes of sections 4-180 and 4-183 of the Connecticut General Statutes.

(c) Orders, rulings and decisions

(1) Unless otherwise provided by law, the final decision of the Board regarding an appeal shall be served by personal delivery, or by certified mail, return receipt requested on all parties and intervenors. All other written rulings shall be issued by first-class mail, unless distributed to all parties and intervenors at the hearing, pre-hearing conference, or oral argument.

(2) Unless otherwise provided by law, a ruling, proposed final decision, or final decision shall be deemed issued upon mailing or personal delivery.

(Adopted effective May 11, 2009)

Sec. 4b-3(f)-10. Proposed final decisions

(a) If a designee of the Board conducted the hearing, within twenty-one (21) days of the conclusion of all hearings on an appeal, the designee shall issue a proposed final decision in accordance with section 4-179 of the Connecticut General Statutes.

(b) When a majority of the members of the Board who are to render the final decision have not heard the matter or read the record, the decision, if adverse to a party, shall not be rendered until a proposed final decision is served upon the parties, and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the members of the agency who are to render the final decision.

(c) A proposed final decision shall be in writing and contain a statement of the reasons for the decision and a finding of facts and conclusion of law on each issue of fact or law necessary to the decision.

(d) Not later than 30 days after the latter of the issuance of the proposed final decision, the filing of any exceptions and briefs with respect thereto, and presentation of any oral argument on a proposed final decision, the Board shall issue a written final decision in accordance with section 4-180 of the Connecticut General Statutes. In its final decision the Board may affirm, modify, or reverse the proposed final decision, in whole or in part, or may remand for further proceedings, including the taking of further evidence. Any such further proceedings shall be governed by section 4b-3(f)-1 to section 4b-3(f)-10, inclusive. Any final decision by the Board may contain whatever conditions the Board deems appropriate.

(e) Pursuant to section 4-179(d) of the Connecticut General Statutes, the parties and the Board may, by written stipulation, waive compliance with subsections (a), (b) and (c) of this section.

(Adopted effective May 11, 2009)

Sec. 4b-3(f)-11. Reconsideration

(a) On motion made or its own initiative, the Board may reconsider, reverse, modify, or correct a final decision in accordance with section 4-181a of the Connecticut General Statutes. In addition, the Board may open a final decision upon a showing that (1) the final decision was prejudiced by fraud, misrepresentation, or other misconduct of a party or intervenor, or (2) there is other compelling reason for opening the final decision.

(b) Any further proceedings required by a ruling under subsection (a) of this section shall be conducted in accordance with section 4-181a of the Connecticut General Statutes, and the applicable provisions of section 4b-3(f)-1 to section 4b-3(f)-10, inclusive.

(Adopted effective May 11, 2009)