

7—2506.22(17A) Default.

2506.22(1) If a party does not appear or participate in a contested case proceeding after proper notice, the presiding officer may render a default or proceed with the hearing and render a decision in the absence of the party.

2506.22(2) Where appropriate, any party may move for default against a party who has requested the contested case proceeding and has not filed a necessary pleading or has not appeared after proper service.

2506.22(3) Default decisions and decisions rendered on the merits after a party has not appeared or participated are final agency actions from which a party may appeal under rule 7—2506.27(17A). A party against whom such a decision has been rendered may file a motion to vacate within 15 days, or other period specified by statute, after the date of notification or mailing of the decision. A motion to vacate must state all facts that establish good cause for that party's non-appearance or non-participation. Each such fact must be supported by at least one sworn affidavit of a person with personal knowledge, which affidavit must be attached to the motion.

2506.22(4) The time for further appeal of a decision is stayed while a timely motion to vacate is pending.

2506.22(5) A presiding officer may grant a motion to vacate only if it is timely and establishes good cause for the movant's non-appearance or non-participation. The burden of proof as to good cause is on the moving party. Opposed parties have ten days to respond to a motion to vacate. If the response includes a request to do so, an opposing party may conduct discovery into the issue of good cause and present evidence on that issue before the presiding officer decides the motion.

2506.22(6) "Good cause" for purposes of this rule has the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

2506.22(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 7—2506.25(17A).

2506.22(8) If a motion to vacate is granted, and no timely interlocutory appeal has been taken, the presiding officer will issue another notice of hearing and the contested case will proceed accordingly.

2506.22(9) A default decision may award any relief consistent with the request for relief made in the petition and embraced in its issues.

2506.22(10) A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 7—2506.29(17A).

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