

PUBLIC

amend the answer in accordance with Rule 3.12(b)(2) (“Motion to Amend Answer”).¹ On February 24, 2021, Complaint Counsel, as part of its opposition to the Motion to Amend Answer, included a cross-motion for leave to amend the Complaint pursuant to Rule 3.15(a)(1).² The following day, on February 25, 2021, Respondents filed a Waiver of Affirmative Defenses of Mootness and Lack of Public Interest. On February 25, 2021, Complaint Counsel filed a motion for leave to respond to Respondents’ waiver filing, which was granted on March 1, 2021.

Rule 3.31(c)(1), regarding the general scope of discovery states: “Parties may obtain discovery to the extent that it may be reasonably expected to yield information relevant to the allegations of the complaint, to the proposed relief, or to the defenses of any respondent.” It would be inefficient and a potential waste of resources to resolve the discovery disputes with reference to the existing allegations, defenses, and proposed relief, when requests to amend the pleadings are pending. Accordingly, the Motions to Compel and the Motion to Quash are DENIED; however, this is WITHOUT PREJUDICE pending resolution of the parties’ motions to amend the pleadings.

ORDERED:



D. Michael Chappell
Chief Administrative Law Judge

Date: March 1, 2021

¹Rule 3.12(b)(2) states:

If allegations of complaint are admitted. If the respondent elects not to contest the allegations of fact set forth in the complaint, the answer shall consist of a statement that the respondent admits all of the material allegations to be true. Such an answer shall constitute a waiver of hearings as to the facts alleged in the complaint, and together with the complaint will provide a record basis on which the Commission shall issue a final decision containing appropriate findings and conclusions and a final order disposing of the proceeding. In such an answer, the respondent may, however, reserve the right to submit proposed findings of fact and conclusions of law under § 3.46.

² Rule 3.15(a)(1) provides:

(a) Amendments (1) By leave. If and whenever determination of a controversy on the merits will be facilitated thereby, the Administrative Law Judge may, upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties, allow appropriate amendments to pleadings or notice of hearing: Provided, however, That a motion for amendment of a complaint or notice may be allowed by the Administrative Law Judge only if the amendment is reasonably within the scope of the original complaint or notice. Motions for other amendments of complaints or notices shall be certified to the Commission.