



DATE: October 2, 2013
TO: Diane M. Fremgen, Clerk of the Supreme Court
FROM: Chief Justice Shirley S. Abrahamson
SUBJECT: To be filed in Rule Petition 12-01

Comment 1: How Justice Roggensack's Third Proposed Calendar (August 2, 2013) Works on Petitions Filed After December 31, 2013.

Justice Roggensack's Proposed Calendar (dated August 2, 2013) is her third public proposed timeline for amending the rule petition process.¹

As demonstrated below, the longest time between the filing of a rule petition and the court's first consideration of the rule petition is approximately 20 months. The shortest time between the filing of a rule petition and the court's first consideration of the rule petition is approximately 9 months.

All calculations relate to the court's first consideration of a rules petition because the proposal sets this date but fails to set a date for the court's adopting a final order. Rather, any rule for which no final order is adopted in September or between November 14 and January 15 is treated as if it were filed by the following December 31 and will be considered again the following September. Proposed rule 1.03(3) specifically states, "All rule petitions filed by December 31 and those for which some review by the court has occurred in a previous term of the court will be considered by the court the following September . . ." (emphasis added). This provision thus significantly extends the time before a final order may be issued.

A significant period of time elapses between the supreme court commissioner's memo and the court's first consideration of the rule petition.

¹ Justice Roggensack has previously filed different timelines:

1. **June 7, 2010.** The court did not vote on Justice Roggensack's proposal but voted to convene a study committee. A copy of the 2010 proposal timeline and my analysis were filed on March 6, 2013 at <http://wicourts.gov/supreme/docs/1201commentsabrahamson2.pdf>. The study committee filed a report and recommendation in May 2011; see Rule Petition 12-01 at <http://wicourts.gov/scrules/1201.htm>.
2. **November 28, 2012.** Justice Roggensack proposed a new timeline at <http://wicourts.gov/supreme/docs/1201commentsroggensack.pdf>. On February 28, 2013 the court did not adopt a timeline but "voted 4 to 3 to adopt the concept of a calendar cycle for rules matters that will identify deadlines and dates for filing and considerations of petitions, comments, and court hearings." See June 21, 2013 letter to interested persons in Rule Petition 12-01, at <http://wicourts.gov/supreme/docs/1201publicletter2.pdf>.
3. **August 2, 2013.** Justice Roggensack filed a third proposed timeline at <http://wicourts.gov/supreme/docs/1201commentsroggensack2.pdf>.

The proposed calendar produces the following results for filings between Jan. 2 – 31, 2014:

Jan. 2, 2014 Petition filed
March 2, 2014 Public comments due (60 days after filing)
May 2, 2014 Petitioner's response due (60 days after comment period expires)
June 16, 2014 Commissioner's memo due (45 days after petitioner's response)
Sept. 1-14, 2015 Court consideration
Nov. 14 - Jan. 15, 2016 Public hearing

No calendar date(s) set for court decision and approval of orders (see above).

(Time elapsed between petition filing and court's first consideration is approximately 20 months)

The proposed calendar produces the following results for filings between Feb. 1 – 28, 2014:

Feb. 1, 2014 Petition filed
April 1, 2014 Public comments due (60 days after filing)
June 1, 2014 Petitioner's response due (60 days after comment period expires)
July 15, 2014 Commissioner's memo due (45 days after petitioner's response)
Sept. 1-14, 2015 Court consideration
Nov. 14 - Jan. 15, 2016 Public hearing

No calendar date(s) set for court decision and approval of orders (see above).

(Time elapsed between petition filing and court's first consideration is approximately 19 months)

The proposed calendar produces the following results for filings between March 1 – 31, 2014:

March 1, 2014 Petition filed
May 1, 2014 Public comments due (60 days after filing)
July 1, 2014 Petitioner's response due (60 days after comment period expires)
Aug. 15, 2014 Commissioner's memo due (45 days after petitioner's response)
Sept. 1-14, 2015 Court consideration
Nov. 14 - Jan. 15, 2016 Public hearing

No calendar date(s) set for court decision and approval of orders (see above).

(Time elapsed between petition filing and court's first consideration is approximately 18 months)

The proposed calendar produces the following results for filings between April 1 – 30, 2014:

April 1, 2014 Petition filed
June 1, 2014 Public comments due (60 days after filing)
Aug. 1, 2014 Petitioner's response due (60 days after comment period expires)
Sept. 15, 2014 Commissioner's memo due (45 days after petitioner's response)
Sept. 1-14, 2015 Court consideration
Nov. 14 - Jan. 15, 2016 Public hearing

No calendar date(s) set for court decision and approval of orders (see above).

(Time elapsed between petition filing and court's first consideration is approximately 17 months)

The proposed calendar produces the following results for filings between May 1 – 31, 2014:

May 1, 2014 Petition filed
July 1, 2014 Public comments due (60 days after filing)
Sept. 1, 2014 Petitioner's response due (60 days after comment period expires)
Oct. 15, 2014 Commissioner's memo due (45 days after petitioner's response)
Sept. 1-14, 2015 Court consideration
Nov. 14 - Jan. 15, 2016 Public hearing

No calendar date(s) set for court decision and approval of orders (see above).

(Time elapsed between petition filing and court's first consideration is approximately 16 months)

The proposed calendar produces the following results for filings between June 1 – 30, 2014:

June 1, 2014 Petition filed
Aug. 1, 2014 Public comments due (60 days after filing)
Oct. 1, 2014 Petitioner's response due (60 days after comment period expires)
Nov. 15, 2014 Commissioner's memo due (45 days after petitioner's response)
Sept. 1-14, 2015 Court consideration
Nov. 14 - Jan. 15, 2016 Public hearing

No calendar date(s) set for court decision and approval of orders (see above).

(Time elapsed between petition filing and court's first consideration is approximately 15 months)

The proposed calendar produces the following results for filings between July 1 – 31, 2014:

July 1, 2014 Petition filed
Sept. 1, 2014 Public comments due (60 days after filing)
Nov. 1, 2014 Petitioner's response due (60 days after comment period expires)
Dec. 15, 2014 Commissioner's memo due (45 days after petitioner's response)
Sept. 1-14, 2015 Court consideration
Nov. 14 - Jan. 15, 2016 Public hearing

No calendar date(s) set for court decision and approval of orders (see above).

(Time elapsed between petition filing and court's first consideration is approximately 14 months)

The proposed calendar produces the following results for filings between Aug. 1 – 31, 2014:

Aug. 1, 2014 Petition filed
Oct. 1, 2014 Public comments due (60 days after filing)
Dec. 1, 2014 Petitioner's response due (60 days after comment period expires)
Jan. 15, 2015 Commissioner's memo due (45 days after petitioner's response)
Sept. 1-14, 2015 Court consideration
Nov. 14 - Jan. 15, 2016 Public hearing

No calendar date(s) set for court decision and approval of orders (see above).

(Time elapsed between petition filing and court's first consideration is approximately 13 months)

The proposed calendar produces the following results for filings between Sept. 1 – 30, 2014:

Sept. 1, 2014 Petition filed
Nov. 1, 2014 Public comments due (60 days after filing)
Jan. 1, 2015 Petitioner's response due (60 days after comment period expires)
Feb. 15, 2015 Commissioner's memo due (45 days after petitioner's response)
Sept. 1-14, 2015 Court consideration
Nov. 14 - Jan. 15, 2016 Public hearing

No calendar date(s) set for court decision and approval of orders (see above).

(Time elapsed between petition filing and court's first consideration is approximately 12 months)

The proposed calendar produces the following results for filings between Oct. 1 – 31, 2014:

Oct. 1, 2014 Petition filed
Dec. 1, 2014 Public comments due (60 days after filing)
Feb. 1, 2015 Petitioner's response due (60 days after comment period expires)
March 15, 2015 Commissioner's memo due (45 days after petitioner's response)
Sept. 1-14, 2015 Court consideration
Nov. 14 - Jan. 15, 2016 Public hearing

No calendar date(s) set for court decision and approval of orders (see above).

(Time elapsed between petition filing and court's first consideration is approximately 11 months)

The proposed calendar produces the following results for filings between Nov. 1 – 30, 2014:

Nov. 1, 2014 Petition filed
Jan. 1, 2015 Public comments due (60 days after filing)
March 1, 2015 Petitioner's response due (60 days after comment period expires)
April 15, 2015 Commissioner's memo due (45 days after petitioner's response)
Sept. 1-14, 2015 Court consideration
Nov. 14 - Jan. 15, 2016 Public hearing

No calendar date(s) set for court decision and approval of orders (see above).

(Time elapsed between petition filing and court's first consideration is approximately 10 months)

The proposed calendar produces the following results for filings between Dec. 1 – 31, 2014:

Dec. 1, 2014 Petition filed
Feb. 1, 2015 Public comments due (60 days after filing)
April 1, 2015 Petitioner's response due (60 days after comment period expires)
May 15, 2015 Commissioner's memo due (45 days after petitioner's response)
Sept. 1-14, 2015 Court consideration
Nov. 14 - Jan. 15, 2016 Public hearing

No calendar date(s) set for court decision and approval of orders (see above).

(Time elapsed between petition filing and court's first consideration is approximately 9 months)