7.1 CHANGE OF LOCATION, DATE OF HEARING AND CONTINUANCES

7.1.1 Change of Location

Under the APA and the contested case rules, the agency required to initiate a contested case is authorized to designate the time, date, and place of the hearing.[1] Generally speaking, venue in any location in the state is proper, but the agency is required to seek the advice of the ALJ regarding the time and location to be designated.[2] A party desiring to obtain a change in the location of the hearing must file a motion to obtain the requisite order.[3] There are few statutory restrictions on the location of hearings.[4] However, the location selected should encourage participation by all "affected interests."[5] In the absence of statutory restrictions, an agency has discretion in designating the place of hearing,[6] and it may set multiple hearings in different places throughout the state.[7] Multiple-location hearings are common to contested cases involving policy issues of public impact and concern, such as ratemaking proceedings or environmental actions. Agency discretion in setting the place of hearing must be exercised with due regard for fairness[8] and the convenience of the parties.[9] Thus, it is an abuse of discretion to set a workers' compensation hearing over three hundred miles from a claimant's residence in the face of a protest and known destitution.[10]

A reference point for examining change of location questions is Minnesota *forum non conveniens* law, which establishes a strong presumption in favor of the plaintiff's choice of forum.[11] To rebut that presumption, a defendant must show that a series of factors weigh in favor of an alternative forum. Those factors include: (1) the relative ease of access to sources of proof; (2) the availability of compulsory process for the attendance of witnesses; (3) the cost of obtaining attendance of witnesses; (4) the administrative burdens a lawsuit will impose upon a court; (5) the interest in having localized controversies decided at home; and (6) the court's familiarity with the applicable law.[12]

1 MINN. STAT. § 14.58 (2014); MINN. R. 1400.5600 (2013). However, the agency may leave those determinations to the judge. MINN. R. 1400.5600, subp. 2.A (2013).

2 MINN. STAT. § 14.50 (2014).

3 Motion practice is governed by MINN. R.. 1400.6600 (2013).

4 *See* MINN. STAT. §§ 363A.29, subd. 1 ()(specifying the location of hearings arising under the Minnesota Human Rights Act), 125A.091, subd. 12 (specifying the location of special education hearings) (2014).

5 MINN. STAT. § 14.50 (2014).

6 Burri v. Campbell, 102 Ariz. 541, 434 P.2d 627, 629 (1967); Nichols v. Council on Judicial Complaints, 615 P.2d 280, 286 (Okla. 1980).

7 *See* State *ex rel.* Comm'r of Ins. v. N.C. Rate Bureau, 300 N.C. 460, 468, 269 S.E.2d 538, 543-44 (1980).

8 *See* Brotherhood of R.R. Trainmen v. Chicago, Milwaukee, St. Paul & Pac. R.R., 237 F. Supp. 404, 422-23 (D. D.C. 1964), *rev'd*, 345 F.2d 985 (D.C. Cir. 1965).

9 *See* NLRB v. Sw. Greyhound Lines, 126 F.2d 883, 888 (8th Cir. 1942); Burnham Trucking Co. v. United States, 216 F. Supp. 561, 564 (D. Mass. 1963).

10 Seitzinger v. Fort Pitt Brewing Co., 294 Pa. 253, 257, 144 A. 79, 80 (1928).

11 Paulownia Plantations de Panama Corp. v. Rajamannan, 793 N.W.2d 128, 137 (Minn. 2009); Bergquist v. Medtronic, Inc., 379 N.W.2d 508, 511 (Minn. 1986).

12 Indep. Sch. Dist. No. 197 v. Accident and Cas. Ins. of Winterthur, 525 N.W.2d 600, 604 (Minn. Ct. App. 1995) (citing Gulf Oil Corp. v. Gilbert, 330 U.S. 501, 508-09(1947)).

The parties may waive statutory venue for their convenience,[13] and when the circumstances so require a hearing may be split between two locations.[14] However, the general rule is that an agency is not authorized to hold hearings beyond its borders or to administer oaths there.[15]

7.1.2 Date and Time

Contested case hearings are held at the time and on the date specified by the agency in the notice of and order for hearing unless the ALJ orders a change. Under the contested case rules, a formal contested case hearing may not be held sooner than 30 days after the agency's initial pleading is served unless the chief ALJ determines that a shorter time period is in the public interest and will not be prejudicial.[16] Some statutes and rules require or permit hearings on shorter notice.[17] It is generally held that agency hearings cannot be held on Sundays[18] or holidays.[19]

Statutory time limitations for holding contested case hearings are usually held to be directory rather than mandatory or jurisdictional.[20] Occasionally, statutory time limits are considered to be mandatory unless rights superior to those of the party to be benefited are involved.[21] Where an agency is required to hold a hearing on the suspension of rates and issue its decision within a specified time period, it has been held that the parties cannot effectively waive the statutory requirement.[22] In the absence of statutory time limitations for

[13] *See* Knight v. Younkin, 61 Idaho 612, 612, 105 P.2d 456, 457-58 (1940).; *cf.* Martin v. Wolfson, 218 Minn. 557, 569, 16 N.W.2d 884, 890 (1944).

[14] *See* Bianco v. Indus. Comm'n, 526 P.2d 323, 324 (Colo. App. 1974).

[15] *Knight*, 61 Idaho at 612, 105 P.2d at 457.

[16] MINN. R. 1400.5600, subp. 3 (2013).

[17] *See, e.g.*, MINN. STAT. § 83.35, subd. 5 (2014) (requiring a hearing within ten days of the issuance of some suspended registration orders under the Minnesota Subdivided Land Sales Practices Act). Hearings on shorter notice frequently are required when cease and desist orders have been issued. *See, e,g., id.* § 80C.12, subd. 2 () (franchises). Hearings on appeals from some citations issued by the department of health must be heard within thirty days of the appeal. *Id.* § 144A.10, subd. 8 (. Revenue Recapture Act contested case hearings require only a twenty-day notice. MINN. R. 1400.8550 (2013).

[18] Under common law, Sundays were "dies non juridicus," or days when no judicial business could take place. This common-law doctrine is codified in MINN. STAT. § 484.07 (2014), which requires the courts to be closed on Sundays except for limited purposes. *See also* Kantack v. Kreuer, 280 Minn. 232, 235, 158 N.W.2d 842, 845 (1968).. Most courts have held administrative hearings conducted on Sunday to be void under the common-law doctrine. *See* Chester v. Ark. State Bd. of Chiropractic Exam'rs, 245 Ark. 846, 849-53, 435 S.W.2d 100, 102-04 (1968); Texas State Bd. of Dental Exam'rs v. Fieldsmith, 242 S.W.2d 213, 215-16 (Tex. Civ. App. 1951).

[19] Under MINN. STAT. § 645.44, subd. 5 (2014), no public business may be transacted on holidays except in cases of necessity..

[20] Perry v. Planning Comm'n, 62 Haw. 666, 676, 619 P.2d 95, 103 (1980); *cf.* Benedictine Sisters Benevolent Ass'n v. Pettersen, 299 N.W.2d 738, 740 (Minn. 1980).

[21] State *ex rel*. Hannon v. DeCourcy, 18 Ohio St. 2d 73, 77-78, 247 N.E.2d 465, 468 (1969).

[22] *See* Sw. Bell Tel. Co. v. Ark. Pub. Serv. Comm'n, 267 Ark. 550, 559, 593 S.W.2d 434, 440 (1980); New England Tel. & Tel. Co. v. Pub. Utils. Comm'n, 362 A.2d 741, 748 (1975). MINN. STAT. § 237.075, subd. 2 (2014), contains a time limitation for final agency action on telephone rate petitions. The statutory time limit within which the Public Utilities Commission must act on a rate request under MINN. STAT. § 237.075, subd. 2 (2014) only sets the period during which rates may be suspended. The Commission does not

holding a contested case hearing, it is frequently held that the hearing must be held within a reasonable time.[23] However, long delays in scheduling or final agency determinations are not *per se* due process violations.[24] Additionally, courts generally hold that a general statute of limitations does not apply to administrative disciplinary matters.[25]

Where long delays occur in holding contested case hearings, some courts have suggested that the defense of laches may be available if actual harm or prejudice results.[26] Thus, where there was a nineteen-month delay from the time of an agency's investigation to the time it brought charges, and where memories were diminished by the delay, making effective cross-examination impossible, a California court concluded that the delay was prejudicial and it dismissed the agency's charges.[27]

If an agency refuses to commence a contested case as it is required to do,[28] the aggrieved party may seek judicial relief.[29]

lose jurisdiction to act on a rate request if the time limit expires without a decision. Henry v. Minnesota Pub. Utils. Comm'n, 392 N.W.2d 209, 213-14 (Minn. 1986).

[23] Steen v. City of Los Angeles, 31 Cal. 2d 542, 545, 190 P.2d 937 (1948); *In re* Milton Hardware Co., 19 Ohio App. 2d 157, 166, 250 N.E.2d 262, 268 (1969); *cf.* Nix v. O'Keeffe, 255 F. Supp. 752, 754 (N.D. Fla. 1966). Similarly, hearings may not be held too quickly. *See* Fisher v. Indep. Sch. Dist. No. 118, 298 Minn. 238, 241-43, 215 N.W.2d 65, 68-69 (1974) (one day's notice of teacher termination hearing inadequate).

[24] Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532, 546-47 (1985) (nine-month delay before final decision on security guard's discharge); *In re* Schroeder, 415 N.W.2d 436, 441 (Minn. Ct. App. 1987) (two-year delay between violation and disciplinary hearing does not establish due process violation when there is a lack of evidence regarding the date the agency learned of the violation); Fisher v. Independent School Dist. No. 622, 357 N.W.2d 152, 155-56 (Minn. Ct. App. 1984) (charges and hearing against teacher for incidents occurring twelve to sixteen years before); *see also* Grayline Tours v. Pub. Serv. Comm'n, 97 Nev. 200, 204, 626 P.2d 263, 266 (1981) (four-year delay for final decision was not a violation of due process); Jackson v. State Real Estate Comm'n, 72 Pa. Commw. 539, 542, 456 A.2d 1169, 1170-71 (1983) (concluding that a 2.5 year delay between the filing of a plea and issuance of a notice of hearing was not a due process violation, despite a statute requiring the commission to act "forthwith," because appellant was unable to demonstrate prejudice); Roche v. State Bd. of Funeral Dirs., 63 Pa. Commw. 128, 134-35, 437 A.2d 797, 801 (1981) (holding that a four-year delay between the hearing and the decision did not violate due process because appellant was unable to show prejudice).

[25] Colorado State Bd. of Med.ical Exam'iners v. Jorgensen, 198 Colo. 275, 279, 599 P.2d 869, 872 (1979); Latreille v. Mich.igan State Bd. of Chiropractic Exam'iners, 357 Mich. 440, 445-46, 98 N.W.2d 611, 614-15 (1959); Sinha v. Ambach, 91 A.D. 2d 703, 703, 457 N.Y.S.2d 603, 604 (1982); State v. Josefsberg, 275 Wis. 142, 150, 81 N.W.2d 735, 739 (1957); *see also* § 12.4; *cf. In re* Schultz, 375 N.W.2d 509, 518 (Minn. Ct. App. 1985). *See also* § 12.4.

[26] *Jackson*, 72 Pa. Commw. at 541, 456 A.2d at 1170; *cf.* State v. E. Airlines, Inc., 346 N.W.2d 184, 187 (Minn. Ct. App. 1984).

[27] Gates v. Dep't of Motor Vehicles, 94 Cal. App. 3d 921, 923-26, 156 Cal. Rptr. 791 (1979). However, a claim of memory loss will not be recognized if the claim is not believable or if the memory loss did not result from the agency's delay. *See* Gore v. Bd. of Med. Quality Assur., 110 Cal. App. 3d 184, 192-93, 167 Cal. Rptr. 881 (1980) (concluding that licensee failed to establish unreasonable or prejudicial delay by agency, which learned of malpractice settlement approximately one year before it commenced its action against doctor; court held that laches should be based on date when agency learned or should have learned of acts on which relevant charges are based); *see also* chapter 12.

[28] Under MINN. STAT. § 14.57 (2014), an agency is required to initiate a contested case when one is required by law.

[29] Commers v. Spartz, 294 N.W.2d 321 (Minn. 1980).

7.1.3 Continuances

ALJs are specifically authorized to rule on requests to continue the date and time of contested case hearings.[30] The procedures and standards applicable to such requests are contained in a separate rule that states, in part:

> Requests for a continuance of a hearing shall be granted upon a showing of good cause. Unless time does not permit, a request for continuance of the hearing shall be made in writing to the judge and shall be served upon all parties of record and the agency if it is not a party. [31]

Although a continuance request is, in effect, an application for an order,[32] historically continuance requests have not been strictly treated as motions. One reason for this is that the ten-working-day period allowed for filing objections to motions sometimes would be unworkable if applied to continuance requests. When a continuance is requested, it must be promptly considered so that the parties do not engage in unnecessary preparation for hearing and so that the parties, as well as the ALJ, can efficiently schedule their business.

If time permits, the continuance request must be in writing and contain the facts and information showing entitlement to a continuance. In most cases, time will permit the filing and service of the request before the hearing. When it does not, the rule is silent about the procedure to follow. In practice, such requests have been made by telephone or by email when a written request cannot be filed and served before the hearing or when time is of the essence to a party. When a written request cannot be made, the requesting party should always make the request by telephone or email rather than waiting to make it at the commencement of the hearing. When telephone or email requests are made, the requesting party should notify all other parties before contacting the ALJ. In that way, the requesting party can determine if any other party objects to the request and will be in a position to advise the judge of any objections and of the need for a prehearing conference to consider the request and the objections to it. Although the rule contains no procedures for objecting to continuance requests, the notice provisions in the rule make it clear that the ALJ should not grant continuances *ex parte*. In practice, therefore, the ALJ will ensure that an opportunity to object is made available. Nonetheless, any party with notice of a request should promptly make his or her objections known to the ALJ.

Continuances that would prevent a case from being concluded within a statutory deadline cannot be granted, and if a continuance request is filed within five business days of the hearing, it must be denied if the reason for it could have been ascertained at an earlier time.[33] In all other cases, continuance requests must be granted on a showing of good cause. In determining whether good cause exists, due regard must be given to the requesting party's ability to effectively proceed without a continuance. Under the contested case rule, the following circumstances constitute good cause for a continuance:

30 MINN. R. 1400.5500 G. (2013).

31 *Id.* 1400.7500.

32 *Id.* 1400.6600 (requiring that any application for an order be by motion).

33 Under MINN. R. 1400.7100, subp. 2 (2013), continuance requests must be made within a reasonable time after their need becomes evident.

1. the death or incapacitating illness of a party, representative, or attorney of a party:
2. a court order requiring a continuance;
3. lack of proper notice of the hearing;
4. a substitution of the representative or attorney of a party if the substitution is shown to be required;
5. a change in the parties or pleadings requiring postponement; and
6. an agreement for a continuance by all parties provided that it is shown that more time is clearly necessary to complete authorized discovery or other mandatory preparation for the case and the parties and judge have agreed to a new hearing date, or the parties are engaged in serious settlement negotiations or have agreed to a settlement of the case that has been or will likely be approved by the final decision maker.[34]

Since the circumstances mentioned in the rule are not intended to be exhaustive, other reasons may entitle a party to a continuance. However, the rule provides that good cause will not include the following:

1. intentional delay;
2. unavailability of counsel or other representative because of engagement in another judicial or administrative proceeding unless all other members of the attorney's or representative's firm familiar with the case are similarly engaged, or if the notice of the other proceeding was received after the notice of the hearing for which the continuance is sought;
3. unavailability of a witness if the witness's testimony can be taken by deposition; and
4. failure of the attorney or representative to properly utilize the statutory notice period to prepare for the hearing.[35]

A unilateral request for a settlement conference does not constitute good cause for a continuance unless both parties and the judge agree to a continuance for purposes of such a conference.[36]

In any contested case where it appears, in the interests of justice, that further testimony should be received but where sufficient time does not remain to conclude the testimony, the ALJ is required to order that the additional testimony be taken by deposition or to continue the hearing to a future date to take that testimony.[37] This provision enables the judge, on his or her own motion, to require additional evidence when the interests of justice so require.

34 MINN. R. 1400.7500 (2013).
35 *Id*.
36 *Id.* 1400.6550, subp. 2.
37 *Id.* 1400.7500.

Agencies may compel the presentation of a party's case within reasonable time limits,[38] and the granting of continuances is discretionary[39] and subject only to a clear showing of abuse.[40] As a general rule, however, continuances should be granted when clearly required to meet the ends of justice.[41] Thus, continuances may be required to prevent prejudice,[42] to obtain testimony,[43] or to obtain counsel.[44] If counsel has other engagements at the time of the scheduled hearing, a continuance is usually discretionary.[45] The agreement of counsel to continue the hearing is not controlling on the ALJ in most cases.[46] An ALJ may place conditions on continuances granted.[47]

Where the attorney representing a party is a member of the legislature, she is entitled to a continuance of the hearing while the legislature remains in session.[48] Continuances are not required if another administrative proceeding is pending that may affect the matter in issue.[49] If a criminal prosecution arising out of the same conduct is pending, a continuance is generally not required unless severe, direct sanctions will be imposed for asserting the privilege against self-incrimination.[50] If only an adverse inference may be made because of a party's invocation of the privilege, no continuance is required.[51] Continuances should not be made indefinite without explanation. One court held that an unexplained two-year continuance of an unemployment insurance hearing denied the employer a fair hearing.[52]

[38] Shackelford v. Shackelford, 254 S.W.2d 503, 503 (Ky. 1953); Searcy v. Three Point Coal Co., 280 Ky. 683, 134 S.W.2d 228, 231 (1939).

[39] Carter-Wallace, Inc. v. Gardner, 417 F.2d 1086, 1095 (4th Cir. 1969); N. Nat'l Bank v. Banking Bd., 511 P.2d 940, 942 (Colo. Ct. App. 1973); Giampa v. Ill. Civil Serv. Comm'n, 89 Ill. App. 3d 606, 611, 411 N.E.2d 1110, 1114 (1980).

[40] Roche v. State Bd. of Funeral Dirs., 63 Pa. Commw. 128, 133, 437 A.2d 797, 800 (1981).

[41] Brown v. Air Pollution Control Bd., 37 Ill. 2d 450, 454-55, 227 N.E.2d 754, 756-57 (1967).

[42] *Roche*,, 63 Pa. Commw. at 133, 437 A.2d at 800.

[43] *See In re* Salazar (Levine), 48 A.D.2d 75, 78, 368 N.Y.S.2d 297 (1975); *In re* Vukovic (Levine), 47 A.D.2d 260, 261-62, 367 N.Y.S.2d 112 (1975).

[44] *See* Barrese v. Ryan, 189 F. Supp. 449, 452-53 (D. Conn. 1960); *In re* Milrad (Levine), 44 A.D.2d 287, 290, 354 N.Y.S.2d 724 (1974). However, a party cannot invoke the right to counsel merely to delay the hearing. *In re* Romeo v. Union Free Sch. Dist. No. 3, 82 Misc. 2d 336, 340, 368 N.Y.S.2d 726 (1975).

[45] *See* Simmons v. United States, 698 F.2d 888, 893 (7th Cir. 1983); Givens v. Dep't of Alcoholic Beverage Control, 176 Cal. App. 2d 529, 532, 1 Cal. Rptr. 446 (1959).

[46] *See Simmons*, 698 F.2d at 893 ; Mohawk Med. Ctr. v. Quern, 84 Ill. App. 3d 1026, 1029, 406 N.E.2d 839, 841 (1980).

[47] *See* Ark. State Med. Bd. v. Leonard, 267 Ark. 61, 64, 590 S.W.2d 849, 851 (1979) (holding that continuance in disciplinary proceeding against doctor could be conditioned on restrictions on doctor's drug prescribing practices).

[48] MINN. STAT. § 3.16 (2014); State v. Indep. Sch. Dist. No. 810, 260 Minn. 237, 242-43, 109 N.W.2d 596, 600 (1961).

[49] *See* FCC v. WJR, The Goodwill Station, Inc., 337 U.S. 265, 272 (1949).

[50] Coal. of Black Leadership v. Cianci. 480 F. Supp. 1340, 1344 (D. R.I. 1979). The Fifth Amendment privilege applies to administrative proceedings if the disclosure could be used in a criminal prosecution or lead to other evidence that could be so used. *In re* Gault, 387 U.S. 1, 47 □48 (1967).

[51] *See* Arthurs v. Stern, 560 F.2d 477, 478-80 (1st Cir. 1977).

[52] *In re* Milton Hardware Co., 19 Ohio App. 2d 157, 166, 250 N.E.2d 262, 268 (1969); *see also* Nix v. O'Keeffe, 255 F. Supp. 752, 754 (N.D. Fla. 1966) (concluding that the failure to hold a hearing "some 2 years after a claim was filed and 18 months after request for hearing is so unreasonable as to be a denial of plaintiff's right to a forum provided him by law").

Continuances may be necessary to enable a party to examine newly discovered evidence,[53]and they are often appropriate when an undisclosed witness is called to testify or undisclosed evidence is offered.[54] The testimony of undisclosed witnesses may be excluded if its admission will result in prejudice to the other side, but the trial court has discretion to impose other sanctions or grant a continuance. The factors to consider in determining the existence of prejudice and the appropriate sanction include "(1) the extent of preparation required by an opposing party in preparing for cross-examination or rebuttal of expert witnesses; (2) when the expert agreed to testify; (3) when the party calling the expert notified the opposing party of the expert's availability; (4) when the attorney calling the expert assumed control of the case; (5) whether a party intentionally and willfully failed to disclose the existence of a trial expert; and (6) whether the opposing party reasonably sought a continuance or other remedy."[55]

7.1.4 Stays

In some circumstances, an agency may choose to stay its contested case proceeding. If two administrative agencies have concurrent jurisdiction over a controversy, one may, as a matter of administrative comity, stay its proceedings until those of the other are complete. The agency in the best position, because of its statutory status, administrative competence, and regulatory expertise, to resolve the most critical facets in the controversy should proceed first.[56]

Sometimes parties attempt to force a stay of an agency proceeding by obtaining a court injunction. The exhaustion-of-remedies doctrine comes into play in such cases. The rule is that no one is entitled to injunctive protection against the actual or threatened acts of an agency until administrative remedies have been exhausted unless on jurisdictional or constitutional grounds it can be shown that immediate and irreparable harm will result.[57] Immediate and irreparable harm is, however, not to be found in the mere fact that a party may incur expenses in the administrative proceedings.[58] The doctrine of primary

53 *Cf.* Padilla v. Bd. of Med. Exam'rs, 382 N.W.2d 876, 882 (Minn. Ct. App. 1986).

54 Krech v. Erdman, 305 Minn. 215, 218, 233 N.W.2d 555, 557 (1975) ("In situations where the failure to disclose is inadvertent but harmful, the court should be quick to grant a continuance and assess costs against the party who has been at fault."); *see* Prechtel v. Gonse, 396 N.W.2d 837, 840 (Minn. Ct. App. 1986) (failure to disclose inadvertent but harmful); Kraushaar v. Austin Med. Clinic, P.A., 393 N.W.2d 217, 222-23 (Minn. Ct. App. 1986) (failure to disclose attributable to attorney rather than party); Whitney v. Buttrick, 376 N.W.2d 274, 279 (Minn. Ct. App. 1985) (failure to disclose caused little prejudice and was not willful); N. Messenger, Inc. v. Airport Couriers, Inc., 359 N.W.2d 302, 305 (Minn. Ct. App. 1984) (failure to disclose witnesses due to unexpected withdrawal of eight intervenors).

55 Dennie v. Metro. Med. Ctr., 387 N.W.2d 401, 406 (Minn. 1986).

56 City of Hackensack v. Winner, 82 N.J. 1, 32, 410 A.2d 1146, 1161 (1980).

57 State *ex rel.* Sheehan v. District Court, 253 Minn. 462, 466, 93 N.W.2d 1, 4 (1958); Thomas v. Ramberg, 240 Minn 1, 4-5, 60 N.W.2d 18, 20 (1953); *see also* Garavalia v. City of Stillwater, 283 Minn. 335, 345, 168 N.W.2d 336, 347 (1969); State *ex rel.* Turnbladh v. District Court, 259 Minn. 228, 238, 107 N.W.2d 307, 314 (1960). *But see* Minn. Chippewa Tribe v. State Dep't of Labor, 339 N.W.2d 55, 56 (Minn. 1983) (stating that "whether or not the Workers' Compensation Act applies to the [Minnesota Chippewa] Tribe . . . is a proper subject for declaratory judgment"); State Bd. of Med. Exam'rs v. Olson, 295 Minn. 379, 387, 206 N.W.2d 12, 17 (1973) (stating that "[t]he doctrine of exhaustion of administrative remedies does have some limitations" such as "[w]here it would be futile to seek redress from an administrative body").).

58 *Sheehan*, 253 Minn. at 467, 93 N.W.2d at 5 ; *Thomas*, 240 Minn. at 7, 60 N.W.2d at 21-22. .

jurisdiction, under which courts postpone exercise of their jurisdiction in order to allow an agency to exercise its expertise by proceeding first,[59] may also be relevant when a stay of agency proceedings through a court order is sought.

[59] Siewert v. N. States Power Co., 793 N.W.2d 272, 283 (Minn. 2011); Minnesota-Iowa Television v. Watonwan T.V. Improvement Ass'n, 294 N.W.2d 297, 302 (Minn. 1980).