

## § 10.63

to propose conclusions of law or to submit briefs, in the manner provided in §10.82, if the non-appearing party submits prior to the scheduled hearing or within three days thereafter, a notice of appearance indicating his intent to continue to participate in the proceeding. Otherwise, his failure to appear will constitute a default, and a default order may be sought in accordance with procedures set forth in §10.93 of these rules.

### §10.63 Consolidation; separate hearings.

(a) *Consolidation.* Two or more proceedings involving a common question of law or fact may be joined for hearing of any or all the matters in issue or may be consolidated by order of the Administrative Law Judge. The Administrative Law Judge may make such rulings concerning the conduct of such proceedings as may tend to avoid unnecessary costs or delay.

(b) *Separate Hearings.* The Administrative Law Judge, for the convenience of the parties, to avoid prejudice, or to expedite final resolution of the issues, may order a separate hearing of any claim or issue, or grant a separate hearing to any respondent.

### §10.64 Public hearings.

All hearings shall be public, except that upon application of a respondent or affected witness the Administrative Law Judge may direct that specific documents or testimony be received and retained non-publicly in order to prevent unwarranted disclosure of trade secrets or sensitive commercial or financial information or an unwarranted invasion of personal privacy.

### §10.65 Record of hearing.

(a) *Reporting and transcription.* Hearings for the purpose of taking evidence shall be recorded and transcribed in written form under the supervision of the Administrative Law Judge by a reporter employed by the Commission for that purpose. The original transcript shall be a part of the record and shall be the sole official transcript. Copies of transcripts, except those portions granted non-public treatment, shall be available from the reporter at rates not to exceed the maximum rates fixed by

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the contract between the Commission and the reporter.

(b) *Corrections.* Any party may submit a timely request to the Administrative Law Judge to correct the transcript. Corrections may be submitted to the Administrative Law Judge by stipulation of the parties, or by motion by any party, and upon notice to all parties to the proceeding, the Administrative Law Judge may specify corrections of the transcript. A copy of such specification shall be furnished to all parties and made a part of the record. Corrections shall be made by the official reporter, who shall furnish substitute pages of the transcript, under the usual certificate of the reporter, for insertion in the official record. The original uncorrected pages shall be retained in the files of the Proceedings Clerk.

[41 FR 2511, Jan. 16, 1976, as amended at 60 FR 54802, Oct. 26, 1995]

### §10.66 Conduct of the hearing.

(a) *Expedition.* Hearings shall proceed expeditiously and insofar as practicable hearings shall be held at one place and shall continue, without suspension, until concluded.

(b) *Rights of parties.* Every party shall be entitled to due notice of hearings, the right to be represented by counsel, and the right to cross-examine witnesses, present oral and documentary evidence, submit rebuttal evidence, raise objections, make arguments and move for appropriate relief. Nothing in this paragraph limits the authority of the Commission or the Administrative Law Judge to exercise authority under other provisions of the Commission's rules, to enforce the requirement that evidence presented be relevant to the proceeding or to limit cross-examination to the subject matter of the direct examination and matters affecting the credibility of the witness.

(c) *Examination of witnesses.* All witnesses at a hearing for the purpose of taking evidence shall testify under oath or affirmation, which shall be administered by the Administrative Law Judge. A witness may be cross-examined by each adverse party and, in the discretion of the Administrative Law Judge, may be cross-examined, without