
ATTACHMENT B
ESTABLISHING HEARING PROCEDURES

A. Presentation of Exhibits Electronically During Evidentiary Hearing.

1. Because the hearing will accommodate remote participation by videoconference, all evidence must be presented electronically. This Attachment establishes procedures relating to the presentation of exhibits electronically during the evidentiary hearing.

2. If a pre-filed hearing exhibit marked for identification is offered into evidence, the electronic version in the Commission's file will be used during the hearing.

3. To facilitate the presentation of exhibits electronically during the evidentiary hearing, the Commission will provide a spreadsheet identifying each pre-filed hearing exhibit as it exists in the administrative record. The spreadsheet will include hyperlinks to the filings in the administrative record.¹ The spreadsheet will be made available to the parties prior to the hearing and marked as a hearing exhibit. Commission staff will display pre-filed electronic filings during the hearing.²

4. Any document previously filed by a party that will be offered into evidence, but has not been marked for identification in compliance with this Attachment, must be revised and re-filed in accordance with the requirements in this Attachment. Any such filings must be made

¹ Confidential and highly confidential exhibits will only be made available to staff of the Commission.

² Exhibits will be displayed electronically on the video-conference screen during the hearing. Should the parties have technical questions relating to the electronic presentation of exhibits, they may contact Ms. Casey Federico at Casey.Federico@state.co.us or Ms. Stephanie Kunkel at Stephanie.Kunkel@state.co.us.

within 14 days of the date of the underlying Decision and will be treated as the original filing of hearing exhibits.³

5. Any stipulations or settlement agreements, along with any associated testimony or exhibits, shall also be filed electronically in accordance with the procedures set forth below. This includes, but is not limited to, marking and filing them as exhibits.

6. Final versions of all previously-filed hearing exhibits must be filed **on or before** the fourth business day prior to the hearing,⁴ unless otherwise ordered, so that the spreadsheet may be timely prepared and distributed during the three business days prior to the hearing. Hyperlinks will not be included for confidential or highly confidential information. Any exhibits filed after this deadline will not be included in the spreadsheet of hyperlinked electronic exhibits.

7. After the above deadline to file final versions of exhibits, a party intending to present a document during the hearing that has not been pre-filed must: (a) pre-mark such document with a hearing exhibit number within the party's assigned exhibit number block as required by this Attachment; and (b) upload such documents into the party's designated box.com folder before presenting them during the hearing.⁵ These requirements also apply to documents

³ Compliance with this Attachment may result in a change to pagination of prior versions of hearing exhibits. References in discovery requests and responses to prior versions of hearing exhibits will be construed to be amended to refer to the latest filed version of such testimony, unless otherwise specified. Although corresponding page and line references may reasonably be affected by such construction, corrected references will not be necessary (*i.e.*, no need to amend) so long as the reference remains in reasonable proximity to the referenced material.

⁴ A calculation of the fourth business day prior to hearing shall exclude the first day of the hearing and include each of the four business days preceding the hearing. For example, if the first day of the hearing falls on a Monday, then the fourth business day prior to hearing is Tuesday of the preceding week.

⁵ The Public Utilities Commission Administrative Hearings Section uses a web-based document sharing service, box.com to manage certain exhibits during a hearing. All parties must ensure they can access and use box.com. An email with more details will follow.

not required to be pre-filed (*e.g.*, documents which may be used solely to impeach a witness' testimony in the proceeding, or to refresh a witness' recollection).

8. The parties are responsible for ensuring that they and their witnesses have access to all pre-marked exhibits and are able to download and view documents from box.com *during the hearing*.

B. Identification and Filing Requirements for Hearing Exhibits.

9. In addition to following relevant requirements in the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1 (*e.g.*, Rule 1202 regarding pre-filed testimony), the parties must comply with the identification and filing requirements for hearing exhibits outlined in this Attachment.⁶

10. If a party wishes to offer written testimony into evidence, the party must mark written testimony as a hearing exhibit, consistent with the requirements in this Attachment. The Commission typically allows for the following types of written testimony: direct (by party initiating the proceeding); answer (by interveners); rebuttal (by party initiating proceeding, responding to answer testimony); and cross-answer testimony (by interveners, responding *only* to other interveners' answer testimony). Testimony may also be allowed to address a settlement agreement.

11. Parties must mark *all* hearing exhibits, including those that are part of written testimony as well as those that are not, for identification in sequential order, using hearing exhibit numbers within their assigned hearing exhibit number block.

⁶ In order to minimize the size and allow electronic text searches of the PDF files, versions filed in PDF format should be generated from the native executable electronic file format when possible.

12. Each type of a witness’s testimony, including any attachments, (*e.g.*, direct, answer, rebuttal, cross-answer, and settlement) must be marked with one hearing exhibit number.⁷ Even if comprised of multiple electronic documents, the testimony and attachments will be one hearing exhibit.⁸

13. Parties should not duplicate hearing exhibits or attachments previously filed by another party. A hearing exhibit or attachment filed by one party which duplicates a hearing exhibit or attachment previously filed by another party may be rejected or stricken from the record. At the hearing, any party may sponsor an exhibit that was pre-filed by another party.

14. The title of all pre-filed written testimony must include the type of testimony and the name of the witness. For example, if Hearing Exhibit 100 is the direct testimony of witness John J. Doe, it should be titled and marked as: “Hearing Exhibit 100, Direct Testimony of John J. Doe.” Anything accompanying pre-filed written testimony within a hearing exhibit (*e.g.*, exhibits, appendices, attachments, or attachments to filing) must be marked and referred to as an “attachment” to the testimony and marked using the designated hearing exhibit number, the witness’s initials, and a number sequence. For example, if the party assigned exhibit block 300 files Albert B. Cooke’s answer testimony that includes an attachment, the title of the attachment will be “Hearing Exhibit 300, Attachment ABC-1.” The attachment should not be marked as or referred to as Exhibit ABC-1 or Appendix A.

⁷ Each type of testimony should be identified with a different hearing exhibit number. For example, John J. Doe’s direct testimony may be Hearing Exhibit 100 and his rebuttal testimony may be Hearing Exhibit 105.

⁸ While marked for identification with one hearing exhibit number, the testimony and each attachment should be filed in compliance with Rule 1202 of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* 723-1, which provides that the primary document and each secondary document must be separately uploaded in the Commission’s E-Filing system.

15. When filing hearing exhibits in the E-Filing System, parties must title the exhibits to match the title of the hearing exhibit, consistent with the above requirements, but may not use all uppercase format. All exhibit titles entered into the E-Filing System must start with “Hearing Exhibit XXX.” Building on the above examples, when filing exhibits in the Commission’s E-Filing System, the party filing John J. Doe’s Direct Testimony must enter these titles into E-Filings: “Hearing Exhibit 100, Direct Testimony of John J. Doe.” The first attachment to the hearing exhibit must be entered into E-Filings as “Hearing Exhibit 100, Attachment JJD-1.”

C. Formatting Hearing Exhibits.

16. To ensure that electronic pagination matches the page numbers appearing on exhibits, the first page of **each** hearing exhibit must be numbered as page 1, with each additional page numbered in succession. For example, the cover page must be numbered page 1, and all following pages must be numbered sequentially, including blank pages, executive summaries, tables of contents, and lists of attachments. Page-numbering exhibits consistent with this requirement will facilitate electronic exhibit navigation during the hearing.

17. There may be only one page number shown on each page of all hearing exhibits and attachments. Page numbers should be included in the header of each page-numbered hearing exhibit (*e.g.*, placed at the top right corner of *each page* of the hearing exhibit, as demonstrated in this Attachment). The top line of the header must include the title of the document (*e.g.*, Hearing Exhibit 300, Answer Testimony of Albert B. Cooke; Hearing Exhibit 300, Attachment ABC-1).

18. Parties may modify formatting options in revisions to filed documents in order to minimize the resulting impact to page and line references (*e.g.*, widen a margin to insert a word without changing the line reference or page number where the modification appears).

D. Filing Executable Attachments to Hearing Exhibits.

19. Any spreadsheet filed as, or that is the basis for, an attachment to a hearing exhibit or a hearing exhibit, must be filed in both PDF format and in the native executable electronic file format (*e.g.*, .xlsx, .ods, .gsheet).⁹

20. The title of the executable version must mirror the title identifying the pre-filed version and include the word “Executable” after the hearing exhibit number. For example: “Hearing Exhibit 300, Executable Attachment ABC-1,” or Hearing Exhibit 400, Executable.

21. Parties are not required to paginate such executable exhibits, or file amended, modified, or corrected executable exhibits in redline/strikeout format.

E. Modifying, Amending, or Correcting a Previously Filed Hearing Exhibit on or Before Deadline for Corrections.

22. Should a party wish to modify, amend, or correct a previously identified hearing exhibit **on or before the earlier of** the ordered deadline for such changes or the fourth business day prior to hearing, the following procedures must be followed.

23. Parties must mark for identification any revised exhibits or attachments with a revision number, listed directly after the exhibit or attachment’s title, regardless of file format. For example, if Hearing Exhibit 100, (Direct Testimony of John J. Doe) is revised, it must be marked for identification and filed as, “Hearing Exhibit 100, Direct Testimony of John J. Doe, Rev. 1.”

⁹ When the executable version is filed in native format, the Commission’s E-Filing system will convert it into a PDF version and include it in the docket for the proceeding. The docket will then list the “Executable” version of the attachment, but will link to the converted the PDF version of the native attachment. Any such PDF version titled as “Executable” (consistent with the naming convention set forth above) will be disregarded for all purposes. It should not be cited by the parties, will not be cited by the Commission, and will not be displayed during the hearing.

24. If the native executable electronic file format is **not** a spreadsheet, a complete revision including all changes in redline/strikeout format must be filed.¹⁰ Exhibits or attachments that are revised more than once must contain all redlined modifications as compared to the original version (*i.e.*, Rev. 2 would be compared to the original version, not only to Rev. 1), and must be accompanied by a notice identifying changes in each revision from the most recent version. Parties may not identify or file any revised hearing exhibit or attachment as “corrected,” “modified,” or “amended,” even if the revision corrects, modifies, or amends a prior filing.

25. If the native executable electronic file format **is** a spreadsheet (*e.g.*, .xlsx, .uos, .gsheet), a complete revision must be filed, but the changes do *not* need to be reflected in redline/strikeout format. The filing must be accompanied by a notice attachment (*i.e.*, as a secondary document if electronically filed) identifying changes in each revision from the most recent previous revision.

26. The most recent revision of a hearing exhibit will be the version used during the evidentiary hearing. References in testimony to obsolete versions of other testimonies will be construed to be amended to refer to the latest filed version of such testimony, unless otherwise specified. Although corresponding page and line references may reasonably be affected by such construction, corrected references will not be necessary (*i.e.*, no need to amend) so long as the reference remains in reasonable proximity to the referenced material.

¹⁰ Filing a “clean” version is not necessary and is discouraged.

F. Modifying, Amending, or Correcting a Previously Filed Hearing Exhibit After Deadline for Corrections.

27. Should a party wish to modify, amend, or correct a previously identified hearing exhibit **after the earlier of the** ordered deadline for such changes or the fourth business day prior to hearing, the following procedures must be followed to upload them into the party's designated box.com folder rather than filing through the Commission's E-Filings System.

28. If the native executable electronic file format is **not** a spreadsheet, all changes should be reflected on replacement pages only in redline/strikeout format that will be: (a) marked for identification with a hearing exhibit number within the party's assigned exhibit number block with a revision number (as explained above), in accordance with this Attachment's requirements; and (b) uploaded into the party's designated box.com folder prior to using the exhibit during the hearing.¹¹ The replacement pages must also include an additional notice attachment, (*i.e.*, as a secondary document), identifying changes in each revision from the most recent previous revision.

29. If the native executable electronic file format **is** a spreadsheet (*e.g.*, .xlsx, .uos, .gsheet), all changes should be reflected **on replacement pages only** that will be: (a) marked for identification with a hearing exhibit number within the party's assigned exhibit number block with a revision number (as explained above), in accordance with the procedures in this Attachment; and (b) uploaded into the party's designated box.com folder prior to using the exhibit during the hearing. The changes do *not* need to be in redline/strikeout format. The revision pages must also include an additional notice attachment identifying changes in each revision from the most recent previous revision.

¹¹ Filing a "clean" version is not necessary and is discouraged.

30. If the changes are permitted, and assuming the original filing is otherwise admissible, both hearing exhibits would be admitted into evidence during the hearing with the latter replacement pages superseding and prevailing to the extent of conflict in the previous revision.

31. References to superseded portions of a hearing exhibit will be construed to be amended to refer to the replacement pages, unless otherwise specified. Although corresponding page and line references may reasonably be affected by such construction, corrected references will not be necessary (*e.g.*, no need to amend) so long as the reference remains in reasonable proximity to the referenced material. Thus, a reference in answer testimony to page 10, line 5 of someone else's direct testimony need not be revised when a replacement page 10 is filed so long as page 10, line 5 is in reasonable proximity to the referenced material.

G. Procedures Regarding Confidentiality.

32. Any hearing exhibit (including attachments) submitted with information claimed to be confidential or highly confidential must be filed in accordance with the Standards of Conduct in the Commission's Rules of Practice and Procedure, Rules 1100 through 1111, 4 CCR 723-1.

33. As part of the public record (*i.e.*, not under seal), the first page of the submission must state: "NOTICE OF CONFIDENTIALITY: A PORTION OF THIS DOCUMENT HAS BEEN FILED UNDER SEAL." The first page must list each document filed under seal, list each page number of each document on which confidential or highly confidential material is found, and indicate the nature of the documents that are filed under seal. The submission (redacting or omitting confidential information) must also be pre-marked for identification by a hearing exhibit number (*i.e.* with no "C" designating confidential) within the assigned block.

34. Any submission containing information claimed to be confidential or highly confidential must be filed under seal and pre-marked for identification by the same hearing exhibit number within the assigned block identifying the portion in the public record and shall be designated with a “C” following the number of the hearing exhibit or attachment.

35. For example, a witness’s redacted pre-filed written testimony might be identified in the public record as Hearing Exhibit 100, Direct Testimony of John J. Doe. If redacted portions of the testimony in Hearing Exhibit 100, Direct Testimony of John J. Doe are claimed to be confidential, those portions would be filed in accordance with the Standards of Conduct and identified as Hearing Exhibit 100C, Direct Testimony of John J. Doe. Hearing Exhibit 100, Direct Testimony of John J. Doe would remain in the public record (redacted to exclude confidential material).

36. Further, if portions of Hearing Exhibit 100, Direct Testimony of John J. Doe, Attachment JJD-1 are claimed to be confidential, those portions would be filed in accordance with the Standards of Conduct and identified as Hearing Exhibit 100, Attachment JJD-1C. Hearing Exhibit 100, Attachment JJD-1 would remain in the public record (redacted to exclude confidential material). Comparably, should any highly confidential protections be afforded, the hearing exhibit number would be designated with an “HC” following the number.

ⁱ Rev. April 2022