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## ATTACHMENT B ESTABLISHING PROCEDURES

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### 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.<sup>1</sup> 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.<sup>2</sup> **All parties must review the spreadsheet to confirm that it lists all the exhibits they intend to offer into evidence.**

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

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

<sup>2</sup> 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](mailto:Casey.Federico@state.co.us), Ms. Stephanie Kunkel at [Stephanie.Kunkel@state.co.us](mailto:Stephanie.Kunkel@state.co.us), or Ms. April Crain at [April.Crain@state.co.us](mailto:April.Crain@state.co.us).

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

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 (including attachments) must be filed **on or before** the fourth business day prior to the hearing,<sup>4</sup> 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 exhibits (including attachments) confidential or highly confidential information. Any exhibits (including attachments) 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 (including attachments) 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.<sup>5</sup> These requirements also apply to

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<sup>3</sup> 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.

<sup>4</sup> 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.

<sup>5</sup> 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.

documents 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 Including Attachments.**

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 (including attachments) outlined in this Attachment.<sup>6</sup>

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.

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<sup>6</sup> 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' testimony, including any attachments, (*e.g.*, direct, answer, rebuttal, cross-answer, and settlement) must be marked with one hearing exhibit number.<sup>7</sup> Even if comprised of multiple electronic documents, the testimony and attachments will be one hearing exhibit.<sup>8</sup>

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. Each exhibit must be identified using its title (if any), and if none, must include a concise description of the exhibit. In the case of pre-filed testimony, the exhibit must be identified including 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 must be titled and marked as: "Hearing Exhibit 100, Direct Testimony of John J. Doe." Similarly, if Hearing Exhibit 100 is a map of a service territory, it must be titled and marked as "Hearing Exhibit 100, Map of Service Territory."

15. Anything accompanying a **non-testimonial** hearing exhibit (*e.g.*, appendices, or attachments) must be marked as an "attachment" to the exhibit and marked using the designated hearing exhibit number, a numerical sequence, and its title (if any), and if none, a concise description of the attachment. If, for example, Hearing Exhibit 200 is not witness testimony and

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<sup>7</sup> 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.

<sup>8</sup> 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.

includes a map of a service territory as an attachment, the title of the attachment will be “Hearing Exhibit 200, Attachment 1, Map of Service Territory.”

16. Anything accompanying a **testimonial** hearing exhibit must be marked using the designated hearing exhibit number with the witness’ initials, a number sequence, and its title (if any), and if none, a concise description of the attachment. For example, if the party assigned exhibit block 300 files Albert B. Cooke’s answer testimony that includes a map of a service territory as an attachment, the title of the attachment will be “Hearing Exhibit 300, Attachment ABC-1, Map of Service Territory.”

17. Attachments to hearing exhibits may not be marked as or referred to as exhibits, appendices, or using “HE” as an acronym.

18. When filing hearing exhibits (including attachments) in the Commission’s E-Filing System (“E-Filings”), parties must title the exhibits and attachments to match the title of the hearing exhibit and attachment, consistent with the above requirements, but may not use all uppercase format. All exhibit titles entered into E-Filings must start with “Hearing Exhibit XXX.” Building on the above examples, when filing exhibits in E-Filings, the party filing Albert B. Cooke’s answer testimony must enter these titles into E-Filings: “Hearing Exhibit 300, Answer Testimony of Albert B. Cooke.” If the first attachment to the hearing exhibit is a map of service territory, it must be entered into E-Filings as “Hearing Exhibit 300, Attachment ABC-1, Map of Service Territory.” If Hearing Exhibit 100 is a map of a service territory, it must be entered into E-Filings as “Hearing Exhibit 100, Map of Service Territory.” Likewise, if Hearing Exhibit 200 is not witness testimony and includes a map of a service territory as its first attachment, the attachment must be entered into E-Filings as “Hearing Exhibit 200, Attachment 1, Map of Service Territory.”

**C. Formatting Hearing Exhibits.**

19. 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.

20. 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, Map of Service Territory).

21. Parties may modify formatting options in revisions to filed documents 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 Hearing Exhibits, Including Attachments.**

22. 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.<sup>9</sup>

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<sup>9</sup> 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.

23. The title of the executable version must match the title of the non-executable version, with the addition of “Executable” after the hearing exhibit number (*e.g.*, “Hearing Exhibit 300, Executable Attachment ABC-1, Workpaper” or “Hearing Exhibit 400, Executable Attachment 1, Workpaper” or “Hearing Exhibit 500, Executable Workpaper.”).

24. Parties are not required to: (a) paginate executable exhibits or attachments; (b) file amended, modified, or corrected executable exhibits and attachments in redline/strikeout format; or (c) file a redacted executable version of executable spreadsheets that include confidential or highly confidential information. This does not affect the separate requirement to file a public version in PDF format of a spreadsheet that redacts confidential or highly confidential information, as required in Section G of this Attachment.

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

25. Should a party wish to modify, amend, or correct a previously identified hearing exhibit (including attachments) **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.

26. 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 once, it must be marked for identification and filed as, “Hearing Exhibit 100, Direct Testimony of John J. Doe, Rev. 1.” If it is revised a second time, it must be marked for identification and filed as, “Hearing Exhibit 100, Direct Testimony of John J. Doe, Rev. 2.” If the first attachment to that exhibit is revised once, it must be marked and filed as “Hearing Exhibit 100, Attachment JJD-1, Map of Service Territory, Rev. 1.”

27. If the native executable electronic file format is **not** a spreadsheet, a complete revision including all changes in redline/strikeout format must be filed.<sup>10</sup> 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.

28. If the native executable electronic file format **is** a spreadsheet (*e.g.*, .xlsx, .ods, .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.

29. The most recent revision of a hearing exhibit or an attachment that is part 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.

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<sup>10</sup> Filing a “clean” version is not necessary and is discouraged.



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

30. Should a party wish to modify, amend, or correct a previously filed hearing exhibit or an attachment that is part of a 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.

31. 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.<sup>11</sup> 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.

32. 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.

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<sup>11</sup> Filing a "clean" version is not necessary and is discouraged.

33. 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.

34. 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.**

35. 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.

36. 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 its hearing exhibit and attachment number (*i.e.* with no "C" designating confidential) within the assigned block.

37. 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 or attachment number within the assigned block identifying the portion in the public record and shall be designated with a “C” following the hearing exhibit or attachment number. For example, if portions of the testimony in Hearing Exhibit 100, Direct Testimony of John J. Doe are claimed to be confidential, those portions must be filed in accordance with the Standards of Conduct and identified as “Hearing Exhibit 100C, Direct Testimony of John J. Doe.” The public version of this same exhibit, redacted to exclude information claimed to be confidential must be filed in the public record, identified without the “C” and may not be identified as “Public” or any synonym. The public version marked and filed as “Hearing Exhibit 100, Direct Testimony of John J. Doe” remains in the public record (with confidential material redacted).

38. Further, if portions of Attachment JJD-1 to Hearing Exhibit 100, Direct Testimony of John J. Doe are claimed to be confidential, those portions must be filed in accordance with the Standards of Conduct and identified as “Hearing Exhibit 100, Attachment JJD-1C, Workpaper.” The public version of this same attachment, redacted to exclude information claimed to be confidential must be filed in the public record, identified without the “C” and may not be identified as “Public” or any synonym. Hearing Exhibit 100, Attachment JJD-1, Workpaper remains in the public record (with confidential material redacted).

39. Should any highly confidential protection be afforded, the hearing exhibit or attachment number must be designated with an “HC” following the number (*e.g.*, “Hearing Exhibit 100HC, Direct Testimony of John J. Doe.” and “Hearing Exhibit 100, Attachment JJD-1HC, Workpaper.”). The public version of such exhibits or attachments, redacted to exclude information subject to highly confidential protection, must be filed in the public record, identified

without the “HC” and may not be identified as “Public” or any synonym, (*e.g.*, “Hearing Exhibit 100, Direct Testimony of John J. Doe” and “Hearing Exhibit 100, Attachment JJD-1, Workpaper.”). Hearing Exhibit 100, Attachment JJD-1, Workpaper remains in the public record (with highly confidential material redacted).