
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 will be presented electronically. This Attachment establishes procedures relating to the presentation of exhibits electronically during the evidentiary hearing.¹

2. These procedures are intended to replicate, as practicable, evidence presentation as it occurs when parties and witnesses are present in the hearing room. They allow parties participating remotely to view exhibits on the video-conference screen while the exhibits are being offered into evidence and witnesses testify about them.

3. The exhibit requirements in this Attachment apply to *all* exhibits (*e.g.*, documents intended to be shown during hearing or offered into evidence), **including** those used solely for impeachment, to refresh recollection, or for rebuttal.

4. The Administrative Hearings Section (“Hearing Staff”) uses a web-based document sharing service, box.com, to manage exhibits during hearings. Each party² is provided a box.com “party” folder for their use to upload exhibits before the hearing.³ Each party will receive an invite from box.com to their party folder the first time they participate in a Commission hearing. The

¹ The PUC shares general information regarding hearing processes through its website at <https://puc.colorado.gov/pucfyi>.

² A “party” is an individual, group, or legal entity that is directly involved in a proceeding.

³ Hearing Staff will send an email to the parties with more information on box.com. Should a party not receive such email five (5) days before a scheduled hearing, they should contact Ms. Casey Federico at Casey.Federico@state.co.us, Ms. Stephanie Kunkel at Stephanie.Kunkel@state.co.us, or Ms. April Crain at April.Crain@state.co.us to ensure the PUC has an accurate email contact for them.

party must accept the invitation to join box.com. Parties who have previously participated in a Commission hearing will use the box.com account they established for prior hearing(s) to upload exhibits into a new sub-folder with this Proceeding number. **NOTE: Only Hearing Staff and the invited party can see hearing exhibits uploaded into the party folder. No party can see hearing exhibits uploaded by another party into their respective box.com folder.** When an exhibit is presented during the hearing, the Commission takes possession electronically by moving the exhibit from an individual party folder to a different PUC folder that allows all parties to view exhibits but not to edit or delete them.⁴

5. Each party must: (a) mark (*i.e.* label) all exhibits for identification with a hearing exhibit number in accordance with the procedures below; and (b) upload (*e.g.*, save) all pre-marked exhibits into each party's respective designated box.com folder for this Proceeding prior to presenting them during the hearing.

6. All parties are responsible for ensuring that they and their witnesses have access to all exhibits and can download and view documents from box.com *during the hearing*. Failure to follow these procedures may, in the discretion of the presiding official, result in exclusion of the affected documents.

B. Identification and Page-Numbering Requirements for Hearing Exhibits.

7. Parties must mark each hearing exhibit for identification using sequential hearing exhibit numbers within their assigned block of exhibit numbers before uploading the exhibits to the party's designated box.com proceeding folder. This means that the exhibit itself must be marked as a "Hearing Exhibit" with the designated number so that the exhibit number is visible on

⁴ Exhibits will be displayed electronically on the video-conference screen during the hearing.

a printed version of the exhibit.⁵ For example, the party initiating this Proceeding will mark their first exhibit as “Hearing Exhibit 100” in the top right corner of the first page.

8. If an exhibit has more than one page, all pages must be numbered in order. To make sure the electronic page numbers match the page numbers on the exhibits, the very first page of each hearing exhibit (no matter what's on it) must be numbered as page 1, and then each following page should be numbered 2, 3, and so on.

9. After exhibits have hearing exhibit numbers and page numbers, they must be uploaded to the party's box.com folder so they can be shown during the hearing.

C. Special Procedures Regarding Confidentiality.

10. The Commission has special rules to protect information that a party believes should not be seen by the public.⁶ For example, trade secrets, personally identifiable information, and financial information may be subject to claims of confidentiality. If a party's document (including any hearing exhibit) contains such private information, the party must follow the Standards of Conduct in the Commission's Rules of Practice and Procedure, Rules 1100 through 1111, 4 CCR 723-1 (“Standards of Conduct”) and the below requirements to make sure that the confidential information is not seen by the public.⁷ The party must upload two versions: a public

⁵ Parties are encouraged to electronically save their exhibits using a name that matches the document's exhibit number. However, the exhibit number must still be visible on the exhibit itself.

⁶ Generally, information filed with or provided to the Commission is presumed to be a public record open to inspection by any person, consistent with the Colorado Open Records Act. *See* Rule 1100(b) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (“CCR”) 723-1.

⁷ A person who believes that information requires extraordinary protection beyond that provided for information designated as confidential must file a motion requesting highly confidential protection, as required by Rule 1101(b), 4 CCR 723-1. Different procedures may apply to exhibits that receive highly confidential protection.

version (*i.e.* with the confidential information redacted) and a confidential version (*i.e.* displaying the confidential information) must be uploaded, as detailed below.

1. Process for Public Version of a Hearing Exhibit Claimed to Contain Confidential Information

11. Parties must upload a public version of any hearing exhibit claimed to contain confidential information. In this public version, confidential content needs to be hidden or removed. Only the confidential information should be hidden; the rest of the document must be fully viewable. The first page of the public version (including a slip sheet) must state: "NOTICE OF CONFIDENTIALITY: A PORTION OF THIS DOCUMENT HAS BEEN FILED UNDER SEAL." It also must briefly explain what kind of confidential information is hidden. The public version should be numbered like any other public hearing exhibit, without adding anything to indicate that it is the public version (*e.g.*, Hearing Exhibit 100, not Hearing Exhibit 100, Public or any similar variation). ***If, and only if***, the entire hearing exhibit is confidential, parties must file a slip sheet or cover page alone as the public version of the exhibit.

2. Process for Confidential Version of a Hearing Exhibit Claimed to Contain Confidential Information

12. If a party claims a hearing exhibit contains confidential information, a confidential version with all the private information viewable must be uploaded. The confidential version will not be available to the public. This confidential version should have the same exhibit number as the public version, but with a "C" (for confidential) added right after the number (*e.g.*, "Hearing Exhibit 100C"). The parties may not identify a confidential exhibit with variations such as "Confidential Hearing Exhibit 100." Every page of this version must clearly show what parts are confidential. For instance, confidential portions could be highlighted in yellow. Also, the first

page of the confidential version must explain how to identify the confidential information (*e.g.*, a statement that confidential information is highlighted in yellow).