

**§ 4.824 Exhibits.**

Proposed exhibits shall be exchanged at the prehearing conference, or otherwise prior to the hearing, if the administrative law judge so directs. Proposed exhibits not so exchanged in accordance with the administrative law judge's order may be denied admission as evidence. The authenticity of all exhibits submitted prior to the hearing, under direction of the administrative law judge, will be deemed admitted unless written objection thereto is filed and served on all parties, or unless good cause is shown for failure to file such written objection.

**§ 4.825 Admissions as to facts and documents.**

Not later than 15 days prior to the date of the hearing any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in, and exhibited with, the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters as to which an admission is requested shall be deemed admitted, unless within a period of 10 days, the party to whom the request is directed serves upon the requesting party a statement either (a) denying specifically the matters as to which an admission is requested, or (b) setting forth in detail the reasons why he cannot truthfully either admit or deny such matters.

**§ 4.826 Discovery.**

(a) *Methods.* Parties may obtain discovery as provided in these rules by depositions, written interrogatories, production of documents, or other items; or by permission to enter property, for inspection and other purposes.

(b) *Scope.* Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the hearing.

(c) *Protective orders.* Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the administrative law judge may make any order which justice requires to limit or condition discovery in order to protect a party or person

from annoyance, embarrassment, oppression, or undue burden or expense.

(d) *Sequence and timing.* Methods of discovery may be used in any sequence. The fact that a party is conducting discovery shall not operate to delay any other party's discovery.

(e) *Time limit.* Discovery by all parties will be completed within such time as the administrative law judge directs, from the date the notice of hearing is served on the applicant or recipient.

**§ 4.827 Depositions.**

(a) A party may take the testimony of any person, including a party, by deposition upon oral examination. This may be done by stipulation or by notice, as set forth in paragraph (b) of this section. On motion of any party or other person upon whom the notice is served, the administrative law judge may for cause shown enlarge or shorten the time for the deposition, change the place of the deposition, limit the scope of the deposition or quash the notice. Depositions of persons other than parties or their representatives shall be upon consent of the deponent.

(b)(1) The party will give reasonable notice in writing to every other party of the time and place for taking depositions, the name and address of each person to be examined, if known, or a general description sufficient to identify him or the particular class or group to which he belongs.

(2) The notice to a deponent may be accompanied by a request for the production of documents and tangible things at the taking of the deposition.

(3) A party may name as the deponent a corporation, partnership, association, or governmental agency and may designate a particular person within the organization whose testimony is desired and the matters on which examination is requested. If no particular person is named, the organization shall designate one or more agents to testify on its behalf, and may set forth the matters on which each will testify. The persons so designated shall testify as to matters known or reasonably available to the organization.

(c) Examination and cross-examination of witnesses may proceed as permitted at the hearing. The witness

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shall be placed under oath by a disinterested person qualified to administer oaths by the laws of the United States or of the place where the examination is held, and the testimony taken by such person shall be recorded verbatim.

(d) During the taking of a deposition a party or deponent may request suspension of the deposition on grounds of bad faith in the conduct of the examination, annoyance, embarrassment, oppression of a deponent or party or improper questions propounded. The deposition will then be adjourned. However, the objecting party or deponent must immediately move the administrative law judge for a ruling on his objections to the deposition conduct or proceedings. The administrative law judge may then limit the scope or manner of the taking of the deposition.

(e) The officer shall certify the deposition and promptly file it with the administrative law judge. Documents or true copies of documents and other items produced for inspection during the examination of the witness shall, upon the request of a party, be marked for identification and annexed to the deposition.

(f) The party taking the deposition shall give prompt notice of its filing to all other parties.

#### **§ 4.828 Use of depositions at hearing.**

(a) Any part or all of a deposition so far as admissible under § 4.835 applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof as follows:

(1) Any deposition may be used for contradiction or impeachment of the deponent as a witness.

(2) The deposition of a party, or of an agent designated to testify on behalf of a party, may be used by an adverse party for any purpose.

(3) The deposition of any witness may be used for any purpose if the party offering the deposition has been unable to procure the attendance of the witness because he is dead; or if the witness is at a greater distance than 100 miles from the place of hearing, or is out of the United States, unless it appears that the absence of the witness

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was procured by the party offering the deposition; or if the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or, upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

(b) If only part of a deposition is offered in evidence, the remainder becomes subject to introduction by any party.

(c) Objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

#### **§ 4.829 Interrogatories to parties.**

(a) Any party may serve upon any other party written interrogatories after the notice of hearing has been filed. If the party served is a corporation, partnership, association, or governmental agency, an agent shall furnish such information as is available to the party.

(b) Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney or other representative making them. Answers and objections shall be made within 30 days after the service of the interrogatories. The party submitting the interrogatories may move for an order under § 4.831 with respect to any objection to or other failure to answer an interrogatory.

(c) Interrogatories shall relate to any matter not privileged which is relevant to the subject matter of the hearing.

#### **§ 4.830 Production of documents and things and entry upon land for inspection and other purposes.**

(a) After the notice of hearing has been filed, any party may serve on any other party a request to produce and/or permit the party, or someone acting on his behalf, to inspect and copy any designated documents, phonorecords, and