

(b) If any items are withheld from disclosure on grounds of privilege, the disclosing party shall provide a log describing each item and stating the reason(s) why it was not produced. The privilege log shall provide an index, identifying the allegedly privileged documents and shall provide sufficient detail to permit an informed decision as to whether the document is at least potentially privileged. Specifically, the index must include: A description of the document, including its subject matter and the purpose for which it was created; the date the document was created; the name and job title of the author of the document; and if applicable, the name and job title of the recipient(s) of the document. The judge may order an *in camera* inspection of the privileged documents, if necessary, to determine the proper application of the privilege.

#### § 2700.106 Pre-Hearing Conference.

(a) *When held.* As early as practicable after the parties have received the materials set forth in §2700.105, the presiding Judge will order and conduct a pre-hearing conference. At the discretion of the Judge, the pre-hearing conference may be held in person, by telephone, or electronic means. After receipt of the materials set forth in §2700.105 and prior to the pre-hearing conference, parties are required to engage in a discussion to explore the possibility of settlement.

(b) *Content.* At the pre-hearing conference, the parties will discuss the following: Settlement efforts in the case; the narrowing of issues; an agreed statement of issues and facts; defenses; witnesses and exhibits; motions; and any other pertinent matter. Within a time determined by the Judge during the pre-hearing conference, the parties must provide each other with documents or materials intended for submission as exhibits at the hearing that have not already been provided in accordance with the provisions of §2700.105. At the conclusion of the conference, the Judge will issue an order setting forth any agreements reached by the parties, and will specify in the order the issues to be addressed by the parties at hearing.

#### § 2700.107 Discovery.

Discovery is not permitted except as ordered by the Administrative Law Judge.

#### § 2700.108 Hearing.

(a) *Procedures.* As soon as practicable after the conclusion of the pre-hearing conference, the Judge will hold a hearing on any issue that remains in dispute. The hearing will be in accordance with subpart G of this part, except for §§ 2700.56, 2700.57, 2700.58, 2700.59, 2700.65, and 2700.67, which will not apply.

(b) *Agreements.* At the beginning of the hearing, the Judge will enter into the record all agreements reached by the parties as well as defenses raised during the pre-hearing conference. The parties and the Judge then will attempt to resolve or narrow the remaining issues. The Judge will enter into the record any further agreements reached by the parties.

(c) *Evidence.* The Judge will receive oral, physical, or documentary evidence that is relevant, and not unduly repetitious or cumulative. Testimony will be given under oath or affirmation. The parties are reminded that the Federal Rules of Evidence do not apply in Commission proceedings. Any evidence not disclosed as required by §§2700.105 and 2700.106(b), including the testimony of witnesses not identified pursuant to §2700.106(b), shall be inadmissible at the hearing, except where extraordinary circumstances are established by the party seeking to offer such evidence.

(d) *Court reporter.* A court reporter will be present at the hearing. An official verbatim transcript of the hearing will be prepared and filed with the Judge.

(e) *Oral and written argument.* Each party may present oral argument at the close of the hearing. Post-hearing briefs will not be allowed except by order of the Judge.

(f) *Judge's decision.* The Judge shall make a decision that constitutes the final disposition of the proceedings within 60 calendar days after the hearing. The decision shall be in writing and shall include all findings of fact and conclusions of law; the reasons or bases for them on all the material