§ 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
issues of fact, law, or discretion presented by the record; and an order. If a decision is announced orally from the bench, it shall be reduced to writing within 60 calendar days after the hearing. An order by a Judge approving a settlement proposal is a decision of the Judge.

§ 2700.109 Review of Judge’s Decision.

After the issuance of the Judge’s written decision, any party may petition the Commission for review of the Judge’s written decision as provided for in subpart H of this part.

§ 2700.110 Application.

The rules in this subpart will govern proceedings before a Judge in a case designated for Simplified Proceedings under §§ 2700.102 and 2700.103. The provisions of subparts A and I apply to Simplified Proceedings when consistent with these rules in subpart J. The provisions of subpart C of this part apply to Simplified Proceedings except for § 2700.29, which does not apply. The provisions of subpart G of this part apply to Simplified Proceedings except for §§ 2700.56, 2700.57, 2700.58, 2700.59, 2700.65, and 2700.67, which do not apply. The provisions of subpart H of this part apply to Simplified Proceedings except for § 2700.76, which does not apply. The provisions of subparts B, D, E, and F of this part do not apply to Simplified Proceedings.

PART 2701—GOVERNMENT IN THE SUNSHINE ACT REGULATIONS

Sec.
2701.1 Purpose and scope.
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SOURCE: 44 FR 2575, Jan. 12, 1979, unless otherwise noted.

§ 2701.1 Purpose and scope.

(a) Purpose. The purpose of this part is to implement the Government in the Sunshine Act, 5 U.S.C. 552b. The rules in this part are intended to open, to the extent practicable, the meetings of the Commission to public observation while preserving the Commission’s ability to fulfill its responsibilities and respect the interests of persons in confidential consideration of sensitive matters.

(b) Scope. This part applies to all meetings of the Commission. A “meeting of the Commission” means a joint deliberation in person or by conference telephone call of at least a majority of either the members of the Commission or of a panel of three or more Commissioners that determines or results in the joint conduct or disposition of official Commission business, but does not include (1) deliberations regarding a decision to open or close a meeting, to withhold information about a meeting, and the circumstances of meetings, such as their time, place, and subject matter, and (2) the individual deliberations of Commission members of matters considered upon circulated documents or other notation procedure.

§ 2701.2 Open meetings policy; closure of meetings.

(a) Policy. Commission meetings will generally be open to public observation, including meetings concerning the disposition by the Commission of a formal adjudication. See 5 U.S.C. 522b(c)(10).

(b) Closure. Meetings may be closed, or certain information about a meeting may not be disclosed under the circumstances contemplated by 5 U.S.C. 522b(c)(1)–(10), and under the procedures specified by 5 U.S.C. 552b (d) and (f). Commission employees may attend closed meetings of the commission unless the notice of a closed meeting states otherwise.

§ 2701.3 Announcement of meetings.

(a) Generally. The Commission shall publicly announce and submit to the FEDERAL REGISTER at least 7 days before a meeting, the time, place, subject matter of a meeting, whether it is to be open or closed, and the name and phone number of the Commission employee who will respond to requests for information about the meeting. The description of the subject matter of a meeting