and any response filed in connection therewith, to the Commission. The hearing shall be suspended pending a ruling on the question by the Commission.

(5) The Commission may rule on the question without hearing, or it may require testimony or argument on the issues raised.

(6) The affidavit, response, testimony or argument thereon, and the Commission’s decision shall be part of the record in the case.

§ 1.248 Prehearing conferences; hearing conferences.

(a) The Commission, on its own initiative or at the request of any party, may direct the parties or their attorneys to appear at a specified time and place for a conference prior to a hearing, or to submit suggestions in writing, for the purpose of considering, among other things, the matters set forth in paragraph (c) of this section. The initial prehearing conference shall be scheduled 30 days after the effective date of the order designating a case for hearing, unless good cause is shown for scheduling such conference at a later date, except that for program carriage complaints filed pursuant to §76.1302 of this chapter that the Chief, Media Bureau refers to an administrative law judge for an initial decision, the initial prehearing conference shall be held no later than 10 calendar days after the deadline for submitting written appearances pursuant to §1.221(h) or within such shorter or longer period as the Commission may allow on motion or notice consistent with the public interest.

(b)(1) The presiding officer (or the Commission or a panel of commissioners in a case over which it presides), on his own initiative or at the request of any party, may direct the parties or their attorneys to appear at a specified time and place for a conference prior to or during the course of a hearing, or to submit suggestions in
writing, for the purpose of considering any of the matters set forth in paragraph (c) of this section. The initial prehearing conference shall be scheduled 30 days after the effective date of the order designating a case for hearing, unless good cause is shown for scheduling such conference at a later date, except that for program carriage complaints filed pursuant to §76.1302 of this chapter that the Chief, Media Bureau refers to an administrative law judge for an initial decision, the initial prehearing conference shall be held no later than 10 calendar days after the deadline for submitting written appearances pursuant to §1.221(h) or within such shorter or longer period as the presiding officer may allow on motion or notice consistent with the public interest.

(2) Except as circumstances otherwise require, the presiding officer shall allow a reasonable period prior to commencement of the hearing for the orderly completion of all prehearing procedures, including discovery, and for the submission and disposition of all prehearing motions. Where the circumstances so warrant, the presiding officer shall, promptly after the hearing is ordered, call a preliminary prehearing conference, to inquire into the use of available procedures contemplated by the parties and the time required for their completion, to formulate a schedule for their completion, and to set a date for commencement of the hearing.

(c) In conferences held, or in suggestions submitted, pursuant to paragraphs (a) and (b) of this section, the following matters, among others, may be considered:

(1) The necessity or desirability of simplification, clarification, amplification, or limitation of the issues;
(2) The admission of facts and of the genuineness of documents (see §1.246), and the possibility of stipulating with respect to facts;
(3) The procedure at the hearing;
(4) The limitation of the number of witnesses;
(5) In cases arising under Title II of the Communications Act, the necessity or desirability of amending the pleadings and offers of settlement or proposals of adjustment; and
(6) In cases involving comparative broadcast applications:
(i) Narrowing the issues or the areas of inquiry and proof at the hearing;
(ii) [Reserved]
(iii) Reports and letters relating to surveys or contacts;
(iv) Assumptions regarding the availability of equipment;
(v) Network programming;
(vi) Assumptions regarding the availability of networks proposed;
(vii) Offers of letters in general;
(viii) The method of handling evidence relating to the past cooperation of existing stations owned and/or operated by the applicants with organizations in the area;
(ix) Proof of contracts, agreements, or understandings reduced to writing;
(x) Stipulations;
(xi) Need for depositions;
(xii) The numbering of exhibits;
(xiii) The order or offer of proof with relationship to docket number;
(xiv) The date for the formal hearing; and
(xv) Such other matters as may expedite the conduct of the hearing.

(7) In proceedings in which consent agreements may be negotiated (see §1.93), the parties shall be prepared to state at the initial prehearing conference whether they are at that time willing to enter negotiations leading to a consent agreement.

(d) This paragraph applies to broadcast proceedings only.

(1) At the prehearing conference prescribed by this section, the parties to the proceeding shall be prepared to discuss the advisability of reducing any or all phases of their affirmative direct cases to written form.
(2) In hearings involving applications for new, improved and changed facilities and in comparative hearings involving only applications for new facilities, where it appears that it will contribute significantly to the disposition of the proceeding for the parties to submit all or any portion of their affirmative direct cases in writing, the presiding officer may, in his discretion, require them to do so.
(3) In other broadcast proceedings, where it appears that it will contribute significantly to the disposition of the proceeding for the parties to submit all
§ 1.251 Summary decision.

(a)(1) Any party to an adjudicatory proceeding may move for summary decision of all or any of the issues set for hearing. The motion shall be filed at least 20 days prior to the date set for commencement of the hearing. The party filing the motion may not rest upon mere allegations or denials but must show, by affidavit or by other competent testimony) is to be left to agreement of the parties as approved by the presiding officer.

(2) In broadcast comparative cases involving applicants for only new facilities, oral testimony and cross examination will be permitted only where, in the discretion of the presiding judge, material issues of decisional fact cannot be resolved without oral evidentiary hearing procedures or the public interest otherwise requires oral evidentiary proceedings.

(e) An official transcript of all conferences shall be made.

(f) The presiding officer may, upon the written request of a party or parties, approve the use of a speakerphone as a means of attendance at a prehearing conference if such use is found to conduce to the proper dispatch of business and the ends of justice.


§ 1.249 Prehearing statement.

Immediately upon convening the formal hearing in any proceeding, the presiding officer shall enter upon the record a statement reciting all actions taken at the prehearing conferences, and incorporating into the record all of the stipulations and agreements of the parties which are approved by him, and any special rules which he may deem necessary to govern the course of the proceeding.