

#### § 401.84

(3) Questions of practice or procedure during the hearing shall be determined by the Chairman.

#### § 401.84 Hearing procedure.

(a) *Participation in the hearing.* In any hearing, the person requesting the hearing shall be deemed an interested party and shall be entitled to participate fully in the hearing procedure. In addition, any person whose legal rights may be affected by the decision rendered in a contested case shall be deemed an interested party. Interested parties shall have the right to be represented by counsel, to present evidence and to examine and cross-examine witnesses. In addition to interested parties, any persons having information concerning a contested case or desiring to present comments concerning the subject matter of the Hearing for inclusion in the record may submit a written statement to the Commission. Any interested party may request the right to examine or cross-examine any person who submits a written statement. In the absence of a request for examination of such person, all written statements submitted shall be included within the record and such statements may be relied upon to the extent determined by the Hearing Officer or the Commission.

(b) *Powers of the Hearing Officer.* The Hearing Officer shall:

(1) Rule upon offers of proof and the admissibility of evidence, regulate the course of the hearings, hold conferences for the settlement or simplification of procedures or issues, and shall schedule submission of documents, briefs and the time for the hearing.

(2) Cause each witness to be sworn or to make affirmation.

(3) Limit the number of times any witness may testify, limit repetitious examination or cross-examination of witnesses or the extent to which corroborative or cumulative testimony shall be accepted.

(4) Exclude irrelevant, immaterial or unduly repetitious evidence, but the interested parties shall not be bound by technical rules of evidence and all relevant evidence of reasonably probative value may be received.

#### 18 CFR Ch. III (4-1-14 Edition)

(5) Require briefs and oral arguments to the extent determined necessary which shall be included as part of the record unless otherwise ordered by the Hearing Officer.

#### § 401.85 Staff and other expert testimony.

(a) *Presentation on behalf of the Commission.* The Executive Director shall arrange for the presentation of testimony by the Commission's technical staff and other experts, as he may deem necessary or desirable, to incorporate in the record or support the administrative action, determination or decision which is the subject of the hearing.

(b) *Expert witnesses.* An interested party may submit in writing to the Hearing Officer the report and proposed testimony of an expert witness. No expert report or proposed testimony, however, shall be included in the record if the expert is not available for examination unless the report and proposed testimony shall have been provided to the Commission and all interested parties prior to the hearing and the Commission and interested parties have waived the right of cross-examination.

(c) The Executive Director may designate for inclusion in the record those records of the Commission which the Executive Director deems relevant to a decision in a contested case or to provide an understanding of applicable Commission policies, regulations or other requirements relating to the issues in the contested case. The designation of such Commission documents shall be provided to all interested parties prior to the hearing.

#### § 401.86 Record of proceedings.

A record of the proceedings and evidence at each hearing shall be made by a qualified stenographer designated by the Executive Director. Where demanded by the applicant, objector, or any other person who is a party to these proceedings, or where deemed necessary by the Hearing Officer, the testimony shall be transcribed. In those instances where a transcript of proceedings is made, two copies shall be delivered to the Commission. The applicant, objector, or other persons