

WAC 480-07-470 Hearing guidelines. These guidelines are of a general nature and are provided to assist the presiding officer in regulating the course of the proceeding. The presiding officer may suspend or modify the guidelines or use measures not specified in this rule.

(1) **Starting times.** The presiding officer will strictly observe starting times. The proceeding may go forward in the absence of counsel, parties, or witnesses who are late. Counsel may advise the bench by message to the records center when an emergency prevents timely arrival.

(2) **Appearances.** The presiding officer conducting the hearing or prehearing conference will require appearances to be stated orally at the initial prehearing or hearing session, and may also ask for oral appearances at subsequent sessions in the same proceeding, so that all persons attending the hearing will know the identity and interest of all parties present. If the representative has previously filed a notice of appearance or otherwise provided full contact information in a pleading filed in the docket, oral appearances shall consist of the representative's name, law firm, organization, or government entity if any, and the party the person represents. Oral appearance at hearing does not substitute for the requirement for written notice of appearance in WAC 480-07-345(2).

(3) **Matters to be handled at beginning of session.** Parties must notify the presiding officer no later than the start of the hearing session of any motion that a party anticipates may be presented during the hearing, such as one that may require foundation regarding the admissibility of evidence. The presiding officer will give the parties an appropriate opportunity to state and argue any motions related to evidence or to the procedural course of the hearing.

(4) **Evidence; exhibits; stipulations of fact.** The presiding officer may receive evidence as provided by RCW 34.05.452.

(5) **Order of presentation.** Evidence will ordinarily be received in the following order:

- (a) Party having the burden of proof;
- (b) Parties supporting the party having the burden of proof; and
- (c) Parties opposing the party having the burden of proof.

The presiding officer may direct a modified order of presentation considering the needs of the parties, the commission, the proceeding, and the parties' preferences.

(6) **Testimony under oath.** The presiding officer will administer an oath or affirmation to each witness before the witness testifies in an adjudicative proceeding. When members of the public testify, they will be sworn in the same fashion as other witnesses.

(7) **Addressing the presiding officer or witnesses.** All counsel and other party representatives, including parties that are not represented, must address all comments, objections, and statements on the record to the presiding officer and not to other counsel or parties. Questions on the record that concern the substance of testimony or exhibits sponsored by a witness must be addressed to the witness and not to counsel or other parties.

(8) **Resolving matters off the record.** Counsel or other party representatives who request to have discussions with the presiding officer off the record must ask leave to go off the record and state the purpose for the request. Extended colloquies regarding procedural issues may be conducted off the record, but will be summarized for the record by the presiding officer subject to comments from party representatives.

(9) **Witness panels.** The commission may direct or allow two or more witnesses to take the stand simultaneously when doing so allows a benefit, such as the integrated response to a line of questions, minimizing referral of questions from one witness to another, or comparing witnesses' positions. The presiding officer will also allow cross-examination of each witness upon matters within the witness's direct evidence.

(10) **Cross-examination.** The presiding officer will limit cross-examination to one round unless good cause exists for allowing additional questions. Witnesses must not be asked to perform detailed calculations or extract detailed data while on the stand. Any such questions must be provided to the witness at least two business days prior to the date the witness is expected to testify, must ask the witness to provide the answer for the record later in the hearing session, or must provide an answer and ask the witness to accept it "subject to check." Witnesses must not be asked to accept information subject to check if the information is included in a prefiled exhibit or testimony, or is already in evidence. When a witness accepts information subject to check, the witness must perform the check as soon as practicable. A response given subject to check will be considered accurate unless:

(a) The witness subsequently testifies during the hearing that the witness does not accept the information subject to check and explains the reasons for that position; or

(b) Within five business days following the date of receipt of the hearing transcript, the party sponsoring the witness files and serves a declaration from the witness stating that the witness does not accept the information subject to check and explaining the reasons for that position. Any such declaration must be limited to the information subject to check and may not expand, revise, or otherwise modify the witness's testimony.

(11) **Redirect examination.** A party whose witness has been cross-examined may conduct redirect examination of the witness on issues raised during cross-examination or examination by the presiding officer, if applicable.

(12) **Transcript.** Each party will bear its own costs for transcripts or tape recordings, including charges for expedited service when a party requests it. To protect valuable commercial information unique to the court reporter's work product or services and for which the court reporter charges a fee for copies, the commission will not post on its website or provide to any parties a copy of the transcript of an evidentiary hearing until after post-hearing briefing has concluded.

[Statutory Authority: RCW 80.01.040 and 80.04.160. WSR 17-06-051 (General Order R-588), § 480-07-470, filed 2/28/17, effective 3/31/17; WSR 06-16-053 (Docket A-050802, General Order R-536), § 480-07-470, filed 7/27/06, effective 8/27/06; WSR 03-24-028 (General Order R-510, Docket No. A-010648), § 480-07-470, filed 11/24/03, effective 1/1/04.]