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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2014. (U39M)

Application 12-11-009  
(Filed November 15, 2012)

**ASSIGNED COMMISSIONER'S RULING AND SCOPING MEMO**

Pursuant to Rule 7.3(a) of the Commission's Rules of Practice and Procedure (Rules)<sup>1</sup> and following the prehearing conference held on January 11, 2013, this scoping memo sets the procedural schedule, assigns the Presiding Officer, and addresses the scope of the proceeding and other procedural matters.

**1. Background**

This proceeding is the General Rate Case (GRC) Phase 1 application<sup>2</sup> of Pacific Gas and Electric Company (PG&E) for authority to increase its gas and electric distribution and electric generation base revenue requirements by \$1.282 billion for the test year 2014. PG&E also seeks an attrition adjustment mechanism estimated to result in revenue increases in 2015 and 2016 in the

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<sup>1</sup> All subsequent references to Rules are to the Commission's Rules of Practice and Procedure. The current version of the Rules is available on the Commission's website: [www.cpuc.ca.gov](http://www.cpuc.ca.gov).

<sup>2</sup> Phase 1 of the GRC addresses revenue requirements and related issues. Phase 2 addresses electric marginal cost, revenue allocation, and rate design matters.

amounts of \$492 million and \$504 million, respectively. PG&E cites the following key reasons for its requested revenue increases:

- Increases in the costs of delivering energy safely to customers, maintaining reliability, and providing responsive customer service;
- Need for substantial capital investments to replace aging infrastructure;
- Need for capacity-driven additions;
- Recovery of costs for depreciation associated with PG&E's plant investments; and
- Costs of complying with governmental regulations and orders applicable to PG&E's extensive electric and gas systems and facilities.

Protests to PG&E's application were filed on December 17, 2012, and Prehearing Conference (PHC) Statements were filed on January 8, 2013. Protests and/or PHC Statements were filed by the Commission's Division of Ratepayer Advocates (DRA), The Utility Reform Network (TURN), the City and County of San Francisco (CCSF), the Greenlining Institute (Greenlining), the Center for Electrosmog Prevention, the Coalition of California Utility Employees, Merced And Modesto Irrigation Districts (Irrigation Districts), the Marin Energy Authority, the Alliance for Retail Energy Markets, the Direct Access Customer Coalition, Engineers and Scientists of California, and the National Asian American Coalition and Ecumenical Center for Black Church Studies.

PG&E filed replies to protests on December 21, 2012. On January 11, 2013, the Commission held a duly noticed PHC to determine parties, create the service list, identify issues, consider the schedule, and address other matters as necessary to proceed with this docket. During the PHC, PG&E provided an update regarding its subsequent conference call on January 9, 2013, with several

parties that had filed a protest and/or PHC Statement. This ruling adopts a procedural schedule and scoping memo based upon consideration of parties' filings and discussions at the PHC.

## **2. Scope**

The principal scope of issues of this proceeding revolve around the determination of the extent that the needs and costs identified by PG&E are just and reasonable and should be reflected in retail rates. PG&E is requesting significant increases in rates for its electric distribution, gas distribution and electric generation operations. PG&E provided a summary list of principal issues as set forth in its PHC Statement, Attachment A. During the PHC, PG&E provided an update on its discussions with parties that filed protests and/or PHC Statements. PG&E noted that participating parties in those discussions had agreed to add to the scope of the proceeding issues concerning safety, reliability, and risk assessment to those set forth by PG&E in its PHC statement. No party objected to expressly including customer outreach and supplier diversity as being within the scope.

Parties disagreed concerning whether the ongoing Competition Transition Charge (CTC) issues raised by the Irrigation Districts should be included in the scope of this proceeding. In PG&E's 2013 Energy Resource Recovery Account and Generation Non-Bypassable Charges forecast application (A.12-06-002), the Irrigation Districts requested that the Commission set an end date for Ongoing CTC or develop a phase out plan. Marin Energy Authority *et al.* recently filed a petition for rulemaking to address a number of cost allocation and non-bypassable charge issues, including a proposal to phase out stranded cost recovery. The Irrigation Districts seek confirmation that the CTC issue will be

addressed in the Petition for Rulemaking proceeding or another proceeding, including possibly this Application.

In general, all matters raised in PG&E's application, or which may be reasonably inferred from the application, are within the scope of this proceeding. Issues identified by parties in protests and PHC statements fall within the overall scope, except for the issue of CTC phase-out. Because the proposed phase-out of CTC is an industry-wide issue, it is outside the scope of this proceeding which is limited to PG&E. Determination of what other procedural forums may be appropriate to address CTC issues is beyond the scope of this proceeding.

The scope of this proceeding shall expressly include consideration of the Reports of the Safety and Enforcement Division (SED) that are to be issued in this proceeding, as discussed at the PHC. In response to a directive from the Commission's executive director dated March 5, 2012 and in anticipation of PG&E's testimony which was to include a risk assessment of PG&E's gas distribution, electric distribution and electric generation systems, SED hired two consultants to evaluate risk assessments, risk mitigation, programs and policies, as well as PG&E corporate policies, goals, culture and the efforts being made to bolster system safety and security. SED is planning to complete two reports on the results of the consultants' evaluations. The reports shall be made available to the parties by Administrative Law Judge (ALJ) ruling in accordance with the schedule discussed below and as adopted in Appendix A.

A companion Order Instituting Investigation will be issued shortly. This will allow the Commission to hear proposals other than PG&E's and to enable the Commission to enter orders beyond the confines of what PG&E specifically requests in its application.

### **3. Schedule**

PG&E, DRA, and TURN jointly proposed a procedural schedule that was discussed at the PHC. Similar to the schedule proposed by PG&E in its application, the joint proposal provides for a final decision by December 19, 2013 and accommodates parties' needs with respect to the overall time for analysis and the preparation of testimony.

TURN agreed to support, and DRA did not oppose a motion to be filed by PG&E seeking an order from the Commission that would make any revision to the revenue requirements from this case effective January 1, 2014, even if a Commission decision is issued after that date. The proposed schedule contemplates the need for evidentiary hearings, and provides 15 working days for hearings.

The time interval between the service of DRA testimony and the service of intervenor testimony reflects only 14 calendar days. In order to preserve the possibility of an end-of-year decision, that interval will be maintained. Parties should be communicating with each other as far ahead as possible to coordinate issues and identify positions in order to reduce duplication and increase the efficiency of the GRC process.

The adopted schedule is set forth in Appendix A, reflecting the agreements reached among PG&E, DRA, and TURN. The assigned Commissioner or ALJ may modify the schedule, as needed. The goal is to conclude this proceeding as soon as practical, and no later than 18 months from the date of this Ruling and Scoping Memo as contemplated by Pub. Util. Code § 1701.5.

The due date of May 17, 2013 is set for release of the SED reports on the evaluation of PG&E's risk assessment and mitigation programs and policies. A separate SED report on the results of a financial audit of PG&E's gas distribution

system is to be released on May 31, 2013. These SED reports will be made available to parties through issuance of an ALJ ruling. A follow up workshop will be scheduled on June 12, 2013 to provide parties the opportunity to ask questions or seek clarifying information regarding the SED reports. If necessary, SED consultants can be made available to testify on the contents of their reports during the scheduled evidentiary hearings.

#### **4. Case Management Statement**

In order to facilitate the orderly scheduling of witnesses, a Case Management Statement shall be submitted by PG&E. The Case Management Statement shall include:

- The status of any ongoing settlement discussions.
- The order of witnesses for evidentiary hearings.
- Cross-examination times estimated by each of the parties and for each of the witnesses they wish to question.
- A list of witnesses for whom no cross-examination is estimated.
- Any other matters that the parties deem relevant.

All parties that submit written testimony and/or intend to cross examine witnesses shall jointly cooperate in providing pertinent information to PG&E for preparation of the Case Management Statement. To the extent possible, parties should work collectively towards fitting cross-examination estimates within the 15 days of scheduled evidentiary hearings. For this purpose, parties should assume 4 ½ hours of hearing time per day, or a total of 67.5 hours of hearing time (=15 days \* 4 ½ hours).

Parties planning on cross-examination shall provide to PG&E their estimated time for cross examination per witness seven calendar days prior to the start of hearings. In order to minimize the amount of cross-examination, and

where feasible, parties should seek to enter into stipulations of facts, or other dispute resolution, as conditions warrant. PG&E shall file and serve the Case Management Statement document on behalf of the parties five calendar days prior to hearings.

## **5. Public Participation Hearings**

Public participation hearings (PPHs) will be scheduled in selected locations throughout the PG&E service territory in order to provide an opportunity for PG&E's customers to communicate directly with the Commission about how PG&E's application, if granted, would impact them. A series of PPHs will be held following the issuance of intervenor testimony and prior to evidentiary hearings.

Parties are instructed to contact the Public Advisors Office (to the attention of Karen Miller ([knr@cpuc.ca.gov](mailto:knr@cpuc.ca.gov))) with any suggestions regarding locations, dates, or other related issues relating to scheduling and conducting PPHs in this proceeding. A separate ruling will be issued providing further information regarding public notice and identifying the specific locations, dates and times for the PPHs.

## **6. Phase 2 Filing**

PG&E is directed to file a separate Phase 2 application to address electric marginal costs, revenue allocation, and rate design. This treatment of Phase 2 issues as a separate application filing is consistent with the procedure of recent GRC proceedings, and consistent with the Commission's responsibility under Pub. Util. Code § 1701.5 to complete ratemaking proceedings within 18 months.

## **7. Proceeding Category and Need for Hearings**

This Ruling confirms the Commission's preliminary determination in Resolution ALJ 176-3305, dated November 29, 2012, that the category for this

proceeding is ratesetting and that evidentiary hearings are necessary. This Ruling, only as to category, may be appealed under Rule 7.6.

#### **8. Principal Hearing Officer**

Pursuant to Rule 13.2(b), ALJ Thomas Pulsifer is the presiding officer for this proceeding.

#### **9. Ex Parte Communications**

Parties shall observe and comply with the applicable Commission *ex parte* communications rules set forth in Rules 8.2(c), 8.3 and 8.5.

#### **10. Final Oral Argument**

Pursuant to Rule 13.13(b), a party in a ratesetting proceeding has the right to make a final oral argument before the Commission if the final oral argument is requested within the time and manner specified in the scoping memo or later ruling. In this proceeding, any party seeking to present a final oral argument shall file and serve a motion within 10 days of the filing date of reply briefs. The motion shall state the request, the subjects to be addressed at oral argument, the amount of time requested, any recommended procedure and order of presentations, and all other relevant matters. The motion shall contain all the information necessary for the Commission to make an informed ruling on the motion and to provide an efficient, fair, equitable, and reasonable final oral argument. If more than one party seeks the opportunity for final oral argument, parties shall use their best efforts to present a joint motion, including a joint recommendation on procedure, order of presentations, and anything else relevant to the motion. Responses to the motion may be filed.

#### **11. Discovery Protocols**

In the interests of efficiency and keeping the proceeding on schedule, parties are urged to engage in discovery as early as possible. The following

general discovery protocols shall apply. Any exceptions must be negotiated by the parties.

Responses to discovery shall be due within 10 business days, subject to reasonable extensions. For post-rebuttal discovery, parties shall turn around rebuttal-related discovery requests within five days. If a longer response time is required, the party preparing the response shall notify the requesting party and indicate when the response will be sent. Such notice should be provided as soon as possible but no later than 10 business days after receipt of the request. If a party's sole response to discovery is an objection (as opposed to an objection coupled with a substantive response), the party shall make objections to discovery requests within five business days.

Parties shall use web-based discovery protocols, to the extent practical, to obtain information from PG&E. These protocols are set forth in Appendix B of this ruling. As explained in the PG&E PHC Statement, PG&E maintains a website (<http://apps.pge.com/regulation>) which makes available data request responses, including most documents listed as attachments to the responses. The site is also linked to PG&E's main Internet site (<http://www.pge.com>), via the "Rates and Regulation" sub-area. The site does not give access to responses and documents that are voluminous or confidential (e.g., submitted to DRA subject to Public Utilities Code Section 583 or provided to a party subject to the Non-disclosure Agreement (NDA))<sup>3</sup> or that are unavailable electronically.

Parties shall follow the procedures in Resolution ALJ-164 to resolve discovery disputes, except that a party shall file a response to a discovery motion

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<sup>3</sup> PG&E attached its standard Non-Disclosure Agreement form in Attachment B of its PHC Statement for the use of parties seeking access to confidential information.

within three working days (instead of 10 calendar days) unless otherwise ruled by the ALJ. Parties are reminded to meet and confer to resolve disputes informally before bringing a discovery dispute to the Commission.

## **12. Filing, Service and Service List**

In this proceeding, there are several different types of documents participants may prepare. Each type of document carries different obligations with respect to filing and service.

All formally filed documents must be filed with the Commission's Docket Office *and* served on the service list for the proceeding. Article 1 of the Rules contains the Commission's filing requirements. Other documents, including prepared testimony, are served on the service list but not filed with the Docket Office. We will follow the electronic service protocols in Rule 1.10 for all documents, whether formally filed or just served. This Rule provides for electronic service of documents, in a searchable format, unless the appearance or state service list member did not provide an e-mail address. If no e-mail address was provided, service should be made by United States mail. In this proceeding, we require concurrent e-mail service to ALL persons on the service list for whom an e-mail address is available, including those listed under "Information Only."

Parties are expected to provide paper copies of served documents upon request. E-mail communication about this case should include, at a minimum, the following information on the subject line of the e-mail: A.12-11-009 - PG&E GRC. In addition, the party sending the e-mail should briefly describe the attached communication; for example, *Brief*. Paper format copies, in addition to electronic copies, shall be served on the assigned Commissioner and the ALJ.

The official service list for this proceeding is available on the Commission's web page. Parties should confirm that their information on the service list is

correct, and serve notice of any errors on the Commission's Process Office (Process\_Office@cpuc.ca.gov), the service list, and the ALJ. Prior to serving any document, each party must ensure that it is using the most up-to-date service list. The list on the Commission's web site meets that definition. Any person interested in participating in this proceeding who is unfamiliar with Commission procedures or who has questions about electronic filing procedures should contact the Commission's Public Advisor at (866) 849-8390 or in San Francisco at (415) 703-2074, or (866) 836-7825 (TTY-toll free), or send an e-mail to [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov).

### **13. Web Posting of Documents**

PG&E has offered to maintain a "Document Website" where all non-confidential documents related to this proceeding can be accessed. Instructions for having documents posted to this site are set forth in Appendix C. Such posting does not relieve parties from the filing and service rules described in Section 12 of this Ruling.

### **14. Hearing Ground Rules**

Parties shall comply with the hearing ground rules in Appendix D of this Ruling. These ground rules are intended to promote fair and orderly hearings, and efficient use of hearing time.

### **15. Intervenor Compensation**

Pursuant to Pub. Util. Code § 1804(a)(1), any party who intends to seek an award of intervenor compensation in this proceeding should file and serve a notice of intent to claim compensation no later than February 11, 2013. A separate ruling will address eligibility to claim compensation for any party that timely files and serves a notice of intent to claim compensation.

**IT IS RULED** that:

1. The scope of this proceeding is set forth in Section 2 of this ruling.
2. The schedule set forth in Appendix A of this ruling is adopted.
3. A public workshop, as previously scheduled, was to be held on January 18, 2013, starting at 10:00 a.m., to provide an overview of the application and the proposed revenue requirements in this proceeding. A second public workshop is scheduled for June 12, 2013, starting at 10:00 a.m. to address questions regarding the Safety and Enforcement Division Reports to be issued by Administrative Law Judge ruling in this proceeding. Both workshops will be at the Commission's Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.
4. Evidentiary hearings shall be held, beginning at 9:00 a.m. on July 15, 2013 and continuing through August 9, 2013. Evidentiary hearings will be held in the Commission's Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California.
5. Pacific Gas and Electric Company (PG&E) shall file and serve a Case Management Statement document, on behalf of the parties five calendar days prior to hearings as outlined in Section 5 above. Parties planning on cross-examination shall provide to PG&E their estimated time for cross examination per witness seven calendar days prior to the start of hearings.
6. Pacific Gas and Electric Company shall file a separate application to address electric marginal cost, revenue allocation, and rate design matters.
7. This ruling confirms the Commission's preliminary finding in Resolution ALJ 176-3305 that the category for this proceeding is ratesetting and that hearings are required. This ruling, only as to category, is appealable under Rule 7.6.

8. Administrative Law Judge Thomas Pulsifer is the principal hearing officer for this proceeding.

9. Parties shall comply with the *ex parte* communications rules set forth in Rule 8.2(c), 8.3 and 8.5.

10. Any party requesting a final oral argument before the Commission shall file a motion with 10 days of the filing of reply briefs, as described in Section 10 of this ruling.

11. Parties shall comply with the discovery protocols set forth in Section 11 of the ruling, including, to the extent practical, use of the web-based discovery for obtaining information from Pacific Gas and Electric Company as set forth in Appendix B.

12. Parties shall file and serve all relevant filings as set forth in Section 12 of this ruling.

13. For posting documents on Pacific Gas and Electric Company's "Document Website," parties shall use the protocols set forth in Appendix C.

14. Parties shall comply with the hearing ground rules set forth in Appendix D.

15. A companion Order Instituting Investigation will be issued shortly. This will allow the Commission to hear proposals other than Pacific Gas and Electric Company's (PG&E) and to enable the Commission to enter orders beyond the confines of what PG&E specifically requests in its application.

Dated January 22, 2013, at San Francisco, California.

/s/ MICHEL PETER FLORIO  
Michel Peter Florio  
Assigned Commissioner

**APPENDIX A**  
**ADOPTED PROCEEDING SCHEDULE**

<u>Activity</u>	<u>Date</u>
Informal Public Workshop	January 18, 2013
DRA Report Served	May 3, 2013
Safety and Enforcement Reports Served	May 17, 2013
Intervenor Reports Served	May 17, 2013
Safety and Enforcement Audit Report	May 31, 2013
Workshop on SED Reports (Starting at 10:00 a.m.)	June 12, 2013
Rebuttal Testimony Served (including testimony responding to Safety And Enforcement Division Reports)	June 28, 2013
Public Participation Hearings	(to be scheduled later)
Evidentiary Hearings Begin (Starting at 9:00 a.m.)	July 15, 2013
Evidentiary Hearings End	August 9, 2013
Mandatory Settlement Conference	August 12-13, 2013
Comparison Exhibit Served	August 23, 2013
Opening Briefs	September 6, 2013
Reply Briefs	September 27, 2013
Update Filing	October 4, 2013
Update Hearing	October 14, 2013
Proposed Decision	November 19, 2013
Commission Decision	December 19, 2013

**(End of Appendix A)**

**APPENDIX B**  
**WEB-BASED DISCOVERY PROTOCOLS FOR OBTAINING**  
**INFORMATION FROM PG&E**

Parties shall use the following web-based discovery protocols, to the extent practical, to obtain information from Pacific Gas and Electric Company (PG&E).

1. Parties should transmit their data requests to PG&E electronically by email, preferably with the content document (discovery request) attached to the email. The email should be sent to [GRC2014Mailbox@PGE.COM](mailto:GRC2014Mailbox@PGE.COM). This will greatly facilitate the processes of routing the questions to the appropriate witness and the posting of the data request on the website.

2. Service of the response should be deemed effected once PG&E posts its response on its website, and PG&E sends an email to the requestor indicating that the response has been posted for Internet access and, subject to size limitations, providing the requestor an electronic copy of PG&E's response. Please note that, in the case of confidential material or material that cannot be made available electronically, the same protocol will apply, but the confidential or non-electronic material will be sent in hard copy via first-class mail.

3. PG&E should not be required to provide paper copies of discovery responses to any party that has access to PG&E's Rates & Regulations Internet website, except for those portions of a response that are not available electronically, or which include confidential material. PG&E will establish discovery website access for those individuals related to an active participating party in the PG&E General Rate Case 2014 who signs PG&E's "Internet

Discovery Access Agreement” a copy of which is attached as Attachment G to this PHC Statement. A party seeking access should locate the area of the website labeled “Internet Discovery Access Log-In,” click on “Register” to register for an individual user name and password, and to complete the enrollment process for GRC 2014. The last step of that process asks the party to download a Word file containing the agreement, and then execute and return to PG&E a paper copy of the agreement. Once PG&E receives that agreement, PG&E will notify the party by email that the party has been given requisite case access. Several parties have already successfully followed this practice to obtain access to discovery over the internet for this GRC.

4. PG&E should be required to accept data requests by mail and provide paper copy C-2 responses only for those parties who do not have internet access. This is consistent with the protocol in PG&E’s 2011 GRC as well as the Commission’s own filing rules, which require major utilities such as PG&E to file their pleadings electronically rather than in hard copy (Rule 1.13).

**(End of Appendix B)**

**APPENDIX C**  
**PROTOCOLS FOR WEB POSTING OF DOCUMENTS**

Pacific Gas and Electric Company (PG&E) has established a dedicated e-mail address to facilitate development of the “Document Website” for the Test Year 2014 General Rate Case. Parties and the public can access documents posted at the following link:

<http://apps.pge.com/regulation/search.aspx?CaseID=1036>

Click on the Search button to access a list of posted documents. Each party shall send all public version documents that are required to be either filed or served to [GRC2014Mailbox@PGE.COM](mailto:GRC2014Mailbox@PGE.COM) as an attachment.

In the case of documents containing confidential material subject to Pub. Util. Code § 583 or a non-disclosure agreement, a redacted copy shall be sent to the above email address. For documents PG&E receives during normal business hours (M-F, 8:30 a.m. to 5:00 p.m.), PG&E shall post the document within three hours after receipt; for documents PG&E receives outside normal business hours, PG&E shall post the document by 11:30 a.m., the next business day. In the event that a document is not timely posted, PG&E's shall promptly post the document after discovery of the error.

To eliminate differences in pagination upon printing, parties should save their documents in Adobe Portable Document Format (pdf). Files converted by Adobe Acrobat from other document formats are preferred to files that contain scanned images due to file size and search ability features. Parties to the case who do not have access to the web shall be served with paper copies, as is normally the case.

**(End of Appendix C)**

## APPENDIX D GROUND RULES FOR EVIDENTIARY HEARINGS

### **Exhibit Format**

All exhibits must be a format consistent with Rule 13.7(a). Parties often fail to include a blank space two inches high by four inches wide to accommodate the Administrative Law Judge's exhibit stamp. If necessary, add a cover sheet to the front of the exhibit. The common practice of pre-printing the docket number, a blank line for the exhibit number, and witness names(s) is acceptable, but it is not a substitute for the required two by four inch blank space to accommodate the exhibit stamp.

In addition, all exhibits should be bound on the left side or upper left-hand corner. Rubber bands and paper clips are unacceptable. Excerpts from lengthy documents should include the title page and, if necessary for context, the table of contents of the document. Parties are asked to use a font size no smaller than 12 point wherever practicable.

In the PG&E PHC Statement, Attachment E, PG&E provided a listing of its written testimony and supporting workpapers intends to be moved into evidence in this proceeding. PG&E utilized a numbering convention following a "PG&E" prefix. For example, PG&E's first testimony exhibit has been labeled Exhibit (PG&E-1). Similarly, workpapers for Chapter 5 of PG&E's first exhibit would be labeled "PG&E-2 WP 05." PG&E's labeling convention is accepted and will be utilized for purposes of identifying its exhibits during the evidentiary hearings.

PG&E shall maintain a running list of all exhibits identified and received into evidence throughout the proceeding and shall provide an update to the list to the ALJ and interested parties at the start of each day of evidentiary hearings.

### **Exhibit Copies**

In accordance with Rule 13.7(b), the original and one copy of each exhibit shall be furnished to the Presiding Officer and a copy shall be furnished to the reporter and to each party. The copy furnished to the Presiding Officer may be the mailed copy. Except for exhibits that are served prior to the hearing, parties are responsible for having sufficient copies available in the hearing room for the court reporter and each party in attendance.

### **Procedural Motions and Objections to Testimony**

Parties should avoid bringing oral motions during evidentiary hearings that could have been made in writing, unless the objection or motion is in direct response to oral testimony or where an oral motion is likely to be unopposed and can be done expeditiously. To the extent that extenuating circumstances warrant other limited exceptions, the ALJ may consider such limited exceptions as circumstances warrant.

Motions and objections should be brought before the ALJ for disposition as early as reasonably possible. In the case of motions to strike testimony, motions should be filed no later than five business days before the start of hearings. Unwarranted delays in bringing motions to strike will be weighed as a factor in arriving at a ruling.

### **Deadlines for Providing Cross-Examination Exhibits**

Allowing witnesses time to review new or unfamiliar documents can waste hearing time. A party who intends to introduce an exhibit during cross-examination should provide a copy to the witness and the witness' counsel before 8:00 p.m. of the prior day before the witness takes the stand to be cross examined on the exhibit.

### **Corrections to Exhibits**

The practice of making extensive oral corrections to exhibits on the witness stand, requiring lengthy dictation exercises, causes unnecessary delays. To the extent possible, corrections to testimony should be provided in the form of errata exhibits.

### **Hearing Hours**

Hearings will generally run from 9:00 a.m. to 12:00 p.m. with at least one morning break, and from 1:30 p.m. to 3:30 p.m. with one afternoon break. The hearing hours may be revised, as needed, by the assigned Administrative Law Judge.

### **Cross Examination Time**

As set forth in Rule 13.5, parties are placed on notice that it may be necessary to limit and allocate time for cross-examination as well as time for redirect and recross-examination.

### **Rebuttal Testimony**

Prepared rebuttal testimony should include appropriate reference to the testimony being rebutted. It is inappropriate, and a potential grounds for striking, for any party to withhold direct presentations for introduction in rebuttal testimony.

### **Court Reporters**

Common courtesy should always be extended to the reporters. Counsel should wait for witnesses to finish their answers, and witnesses should likewise wait for the whole question to be asked before answering. Counsel shall refrain from simultaneous arguments on motions and objections. Conversations at the counsel table or in the audience can be distracting to the reporter and other participants. Such distractions should be avoided.

**(End of Appendix D)**