

Electronic Submission of Pre-Served Testimony

Frequently Asked Questions

**WHAT ARE THE ELECTRONIC SUBMISSION REQUIREMENTS FOR PRE-SERVED TESTIMONY?**

*Parties serving pre-served testimony in proceedings pending before the Commission pursuant to 52 Pa. Code § 5.412(f) shall be required, within 30 days after the final hearing in an adjudicatory proceeding (unless such time period is otherwise modified by the presiding officer), to either eFile with or provide to the Secretary’s Bureau a CD containing all testimony furnished to the court reporter during the proceeding.*

**HOW SHOULD TESTIMONY THAT IS MODIFIED DURING AN ADJUDICATORY PROCEEDING BE SUBMITTED?**

*As the Commission is aware that presiding officers maintain different practices regarding the submission of testimony containing words/provisions that have been stricken at hearing, the submitted testimony should match exactly the copy of the testimony that the presiding officer has required be submitted to the court reporter during the hearing.*

* *Example: If an ALJ requires parties to make hand-marked modifications to testimony to reflect that which was stricken during the hearing before submitting the testimony to the court reporter, parties should electronically submit to the Commission a marked copy of the testimony reflecting these modifications (do not alter page numbers).*
* *Example: If an ALJ does not require parties to make modifications to testimony to reflect that which was stricken at hearing before submitting such testimony to the court reporter, parties should electronically submit to the Commission an un-marked copy of the testimony.*
* *Example: Testimony that is not admitted during the hearing should not be electronically submitted to the Commission.*

**MUST PARTIES CONTINUE TO PROVIDE PAPER COPIES OF PRE-SERVED TESTIMONY TO THE COURT REPORTER?**

*Yes, in addition to electronically submitted testimony (eFiled or by CD), parties must continue to provide two paper copies of such testimony to the court reporter at the hearing.*

**DO PARTIES NEED TO RE-SERVE ELECTRONICALLY SUBMITTED TESTIMONY ON OTHER PARTIES IN THE PROCEEDING?**

*No, parties are not required to serve other parties in the proceeding with electronically submitted testimony when it is eFiled or a CD is provided to the Secretary’s Bureau.*

**WHAT TYPES OF DOCUMENTS SHOULD BE ELECTRONICALLY FILED WITH THE COMMISSION?**

*The electronic filing is limited to pre-served testimony documents (no discovery requests/responses). Parties may, however, voluntarily submit electronic versions of attached exhibits. Any exhibits that are not electronically submitted must be submitted to the court reporter in physical/paper form.*

**IN WHAT FORMAT MUST TESTIMONY BE SUBMITTED?**

*Electronically submitted testimony must be Portable Document Format (PDF) version. Parties electronically submitting testimony through the Commission’s eFiling system must upload each piece of pre-served testimony separately on the Commission’s website. Parties electronically submitting testimony on a CD may upload all testimony documents onto one CD (pending file size limitations).*

**HOW SHOULD ELECTRONICALLY FILED TESTIMONY BE LABLED?**

*All pre-served testimony should be labeled as follows:*

* *“Direct Testimony of \_\_\_\_\_\_\_”*
* *“Rebuttal Testimony of \_\_\_\_\_\_\_\_\_\_”*
* *“Surrebuttal Testimony of \_\_\_\_\_\_\_\_\_\_” (if permissible).*

**HOW SHOULD CONFIDENTIAL OR PROPIETARY TESTIMONY BE SUBMITTED?**

*Parties must submit all confidential or proprietary testimony on a separate CD to the Secretary’s Bureau. Confidential and/or proprietary testimony may not be eFiled. The Commission will continue to evaluate whether our eFiling system may be able to limit internal access to electronically submitted testimony documents to appropriately accommodate for the eFiling of confidential or proprietary testimony in the future.*

**HOW SHOULD CONFIDENTIAL OR PROPRIETARY TESTIMONY BE REDACTED?**

*Whatever, if any, redaction measures are currently being taken by parties prior to submitting confidential testimony to the court reporter should be followed when electronically submitting testimony.*

**HOW CAN PARTIES CONFIRM THAT ELECTRONIC TESTIMONY HAS BEEN PROPERLY SUBMITTED?**

*Parties of record will have electronic access to testimony through the Commission’s case and document management system (an eFiling account is required). Parties are also able to receive daily action alerts and to review daily action records on the Commission’s database to ensure that the other parties in the proceeding have electronically submitted testimony in a timely manner. Parties will ultimately have the capability to review the testimony that is electronically submitted by other parties.*

**WHAT IF A PARTY HAS ELECTRONICALLY SUBMITTED IMPROPER TESTIMONY DOCUMENTS?**

*If a party discovers that improper testimony documents have been electronically submitted to the Commission, that party may raise the concern with the presiding officer in the proceeding. It is important to note that even if a party improperly submits electronic testimony not admitted into the record, both Commission staff and parties of record are aware of the need to consult the transcript for purposes of determining the testimony that was actually admitted into the official record. If the Commission finds that parties are intentionally submitting testimony that is not consistent with the testimony admitted into the record, the Commission will evaluate the need to file a signed verification with electronically submitted testimony in the future.*

**WHO WILL HAVE ACCESS TO ELECTRONICCALLY SUBMITTED TESTIMONY?**

*Commission staff and parties of record will have access to electronically submitted testimony. Our advisory staff is aware of the need to consult the transcript for purposes of determining which testimony has been admitted into the official record. The Commission is confident that parties of record are equally aware of the need for such consultation. At this point in time, the public will not have access to electronically submitted testimony.*

**HOW LONG IS THE PILOT PERIOD FOR THE ELECTRONIC SUBMISSION OF TESTIMONY?**

*Pursuant to the Commission’s Implementation Order regarding Electronic Access to Pre-Served Testimony, issued January 10, 2013 at Docket No. M-2012-2331973, the initial one-year pilot period expires on January 10, 2014. By Secretarial Letter, the Commission has extended the initial pilot period for an additional year, ending January 10, 2015. Upon expiration of the extended pilot period, the Commission intends to notify the appropriate stakeholders and initiate a proposed rulemaking setting forth the requirements for the electronic submission of pre-served testimony.*