

3819 HEARINGS

- 3819.1 In hearing appeals, the Commission shall sit as a body with a quorum of the Commission present. All hearings shall be conducted as meetings on the record in accordance with §§ 3800.4-3800.8, and at the conclusion of all permitted arguments at the hearing, the Commission may enter into closed session to deliberate on the appeal.
- 3819.2 The Commission shall schedule each appeal for oral argument in accordance with § 3802.9, unless all parties agree to submit the case for decision solely on written arguments in accordance with § 3802.14.
- 3819.3 The Commission, in its discretion, may schedule additional hearings to allow the parties to an appeal to present arguments on a pending motion or any other matter related to the appeal.
- 3819.4 All parties to an appeal shall appear, personally or through a representative in accordance with § 3812, for all properly noticed hearings, unless the Commission grants a request for a continuance as provided in § 3815.
- 3819.5 If an appellant fails to appear for a hearing on the merits of an appeal, the appeal may be dismissed for want of prosecution; provided, that the appellee may present arguments at that time without prejudice to any motion to dismiss.
- 3819.6 If an appellee fails to appear for a hearing on the merits of an appeal, the Commission may commence the hearing and deem the appellee's opportunity to present oral argument as waived.
- 3819.7 If any party fails to appear for a hearing on a motion or other matter, the Commission may deem party's position on the subject of the hearing to be withdrawn, conceded, consented to, stipulated, or otherwise unopposed.
- 3819.8 The appellant(s) and appellee(s) shall each be allowed a total of twenty (20) minutes to present oral argument on the merits of the issue(s) appealed to the Commission. The appellant(s) may reserve no more than five (5) minutes of the allotted time for rebuttal. The appellee(s) shall not be allowed to reserve any portion of its allotted time for rebuttal.
- 3819.9 When a cross-appeal is filed or an appeal is initiated by the Commission, each party shall have an opportunity to present oral argument on the issue(s) for twenty (20) minutes; provided, that each party may reserve a portion of no more than five (5) minutes of its allotted time for rebuttal to the oral argument made by the other party.

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- 3819.10 In an order scheduling a hearing other than one on the merits of an appeal, the Commission shall specify whatever times for argument and rebuttal it deems appropriate to the subject(s) of the hearing.
- 3819.11 The Commission reserves the right to question the parties without diminishing the allotted time periods.
- 3819.12 If a party has been aggrieved by an order of the Commission due to a failure to appear for a Commission hearing, the Commission may set aside the order based on the following factors:
- (a) Whether the party had actual notice of the hearing;
 - (b) Whether the party acted in good faith;
 - (c) Whether the party acted promptly upon notice of the order; and
 - (d) Whether the party presents a *prima facie* argument that it could have prevailed in the order.

SOURCE: Notice of Final Rulemaking published at 33 DCR 1336, 1348 (March 7, 1986); as amended by Final Rulemaking published at 68 DCR 012634 (December 3, 2021).