

## §5.12

## 12 CFR Ch. I (1-1-08 Edition)

notify the person requesting the hearing of the reason for the denial.

(d) *OCC procedures prior to the hearing*—(1) *Notice of Hearing*. The OCC issues a Notice of Hearing if it grants a request for a hearing or orders a hearing because it is in the public interest. The OCC sends a copy of the Notice of Hearing to the applicant, to the person requesting the hearing, and anyone else requesting a copy. The Notice of Hearing states the subject and date of the filing, the time and place of the hearing, and the issues to be addressed.

(2) *Presiding officer*. The OCC appoints a presiding officer to conduct the hearing. The presiding officer is responsible for all procedural questions not governed by this section.

(e) *Participation in the hearing*. Any person who wishes to appear (participant) shall notify the appropriate district office of his or her intent to participate in the hearing within ten days from the date the OCC issues the Notice of Hearing. At least five days before the hearing, each participant shall submit to the appropriate district office, the applicant, and any other person the OCC requires, the names of witnesses, and one copy of each exhibit the participant intends to present.

(f) *Transcripts*. The OCC arranges for a hearing transcript. The person requesting the hearing generally bears the cost of one copy of the transcript for his or her use.

(g) *Conduct of the hearing*—(1) *Presentations*. Subject to the rulings of the presiding officer, the applicant and participants may make opening statements and present witnesses, material, and data.

(2) *Information submitted*. A person presenting documentary material shall furnish one copy to the OCC, and one copy to the applicant and each participant.

(3) *Laws not applicable to hearings*. The Administrative Procedure Act (5 U.S.C. 551 *et seq.*), the Federal Rules of Evidence (28 U.S.C. Appendix), the Federal Rules of Civil Procedure (28 U.S.C. Rule 1 *et seq.*), and the OCC's Rules of Practice and Procedure (12 CFR part 19) do not apply to hearings under this section.

(h) *Closing the hearing record*. At the applicant's or participant's request,

the OCC may keep the hearing record open for up to 14 days following the OCC's receipt of the transcript. The OCC resumes processing the filing after the record closes.

(i) *Other meetings*—(1) *Public meetings*. The OCC may arrange for a public meeting in connection with an application, either upon receipt of a written request for such a meeting which is made during the comment period, or upon the OCC's own initiative. Public meetings will be arranged and presided over by a presiding officer.

(2) *Private meetings*. The OCC may arrange a meeting with an applicant or other interested parties to an application, or with an applicant and other interested parties to an application, to clarify and narrow the issues and to facilitate the resolution of the issues.

[61 FR 60363, Nov. 27, 1996, as amended at 64 FR 60098, Nov. 4, 1999]

### §5.12 Computation of time.

In computing the period of days, the OCC includes the day of the act (*e.g.*, the date an application is received by the OCC) from which the period begins to run and the last day of the period, regardless of whether it is a Saturday, Sunday, or legal holiday.

### §5.13 Decisions.

(a) *General*. The OCC may approve, conditionally approve, or deny a filing after appropriate review and consideration of the record. In deciding an application under this part, the OCC may consider the activities, resources, or condition of an affiliate of the applicant that may reasonably reflect on or affect the applicant.

(1) *Conditional approval*. The OCC may impose conditions on any approval, including to address a significant supervisory, CRA (if applicable), or compliance concern, if the OCC determines that the conditions are necessary or appropriate to ensure that approval is consistent with relevant statutory and regulatory standards and OCC policies thereunder and safe and sound banking practices.

(2) *Expedited review*. The OCC grants eligible banks expedited review within a specified time after filing or commencement of the public comment period, including any extension of the