

Subchapter K. HEARINGS.

§22.202 Presiding Officer.

- (a) **Presiding officer to conduct hearings.** Hearings in contested cases shall be conducted by one or more presiding officers. The presiding officer has the decision making authority set out in the commission rules, Government Code, APA, and PURA.
- (b) **Commission may preside over any hearing.** The commission has the authority to conduct any prehearing conference and hearing on any proceeding. The commission may conduct the entire hearing, or it may preside over a hearing in progress, in which case the commissioners shall read the record established to that date. Rulemaking hearings may be conducted by the commission or its designee.
- (c) **Authority of presiding officer.** The presiding officer has broad discretion in conducting the course, conduct, and scope of the hearing. The presiding officer's authority includes, but is not limited to, the power to administer oaths and affirmations; call and examine witnesses; receive evidence and testimony; rule upon the admissibility of evidence and amendments to pleadings; issue subpoenas; issue discovery, procedural, and scheduling orders; impose sanctions; compel the attendance of witnesses and the production of documents; authorize the taking of depositions; re-open the record, prior to the issuance of a proposal for decision, for additional evidence where it is necessary to make the record correct, accurate, and complete; make proposed findings of fact and conclusions of law; make proposed orders; issue interim orders; recess any hearing from time-to-time; abate a proceeding, and take any other action not prohibited by law or by commission rule which is necessary for an efficient and fair hearing.
- (d) **Conduct of hearing.** The presiding officer shall rule expeditiously on all motions and objections made at the hearing. The presiding officer shall conduct the hearing in such a manner to secure fairness in administration, eliminate unjustifiable delay, and promote the development of the record consistent with the applicable laws. The presiding officer shall endeavor to limit the presentation of evidence that creates an unfair prejudice, confuses the issues, or causes undue delay or needless presentation of cumulative evidence, and may:
 - (1) set reasonable times for a party to present evidence, including oral testimony of its own witnesses and cross-examination of other party's witnesses;
 - (2) establish the order in which parties will present evidence and conduct cross-examination;
 - (3) limit the number of witnesses to avoid cumulative or repetitious testimony;
 - (4) limit the time allowed for cross-examination; and
 - (5) order the presentation of cumulative evidence discontinued.
- (e) **Replacement.** If at any time a SOAH administrative law judge is unable to continue presiding over a case, SOAH may appoint a substitute administrative law judge who shall perform any function remaining to be performed without the necessity of repeating any previous proceedings. The substitute administrative law judge shall read the record of the proceedings that occurred prior to his or her appointment before issuing a Proposal for Decision or recommended findings of fact and conclusions of law.