

Oral Hearing Process

The First Step

A utility initiates consideration of an application when it files the application with the Comptroller of Water Rights. Once an application is filed, it becomes a public document and may be viewed by the general public. A utility will normally make copies of the application available in its local offices for public inspection.

Order and Notice

Upon deciding to hold a public hearing, the Comptroller issues an Order and Notice of Public Hearing that is published in local newspapers in the service area of the utility. This Order starts the public hearing process and contains information such as location, starting date and intervention deadline date. The applicant, intervenors, interested parties and the Comptroller must adhere to the Order, which often includes a list of issues that will be considered.

Location

It is the Comptroller's policy to conduct public hearings in locations where the public is most affected by the applicant's request. Hearings may then be held in different locations to accommodate local public interest in the service area of the utility. All hearings are open to the public.

Application

The hearing Order and Notice advises the public where the application may be examined, including relevant documents. The locations include the Comptroller's office and the head office of the applicant.

Information Requests

Persons requiring additional information from the applicant can make their request prior to the commencement of the public hearing. The applicant is then required to respond, allowing sufficient time for the person to decide to become an intervenor or interested party and participate in the public hearing.

Intervention

An intervention is a document sent to the Comptroller to express an intention to participate in a public hearing. It may be a formal legal submission, a letter or even a hand-written letter by a concerned customer. The Comptroller's Secretary must receive the expression of intention before the deadline stated in the hearing Order.

Comptroller's Counsel

When present, the Comptroller's Counsel has two main functions:

- to advise the Comptroller and staff on legal matters and the conduct of the hearing;
- to cross-examine the applicant and intervenors in order to bring out clearly the evidence needed for the Comptroller to arrive at a decision.

While the hearing process may initially seem formal, most public participants quickly become comfortable and effective intervenors. In that regard, it is important to recognize that legal representation is not necessary for effective intervention.

Comptroller's Staff

The main role of the staff is to brief the Comptroller and Counsel for cross-examination. Staff may cross-examine the applicant and intervenors. Staff are also available to assist the applicant and intervenors when requested.

Record of the Proceedings

Verbatim transcripts of the public hearings are recorded. Transcripts are available for purchase from the court reporters.

Sequence of Procedures

The Comptroller's public hearing process is relatively formal and is similar to that of a court. Witnesses provide testimony under oath or affirmation and are subject to cross-examination. Intervenors may be represented by counsel but it is by no means essential that participants have their own lawyer. The process is arranged to make the participants feel as comfortable as possible in making their presentations. Often, members of the public at large, who are not familiar with the process, participate fully.

At the commencement of the hearing the Comptroller makes a brief opening statement on the application and introduces the staff and counsel. Next, the applicant's counsel and witnesses are introduced, followed by the introduction of the intervenors and their counsel and witnesses. A brief intermission usually takes place while all witnesses are sworn under oath or affirmation.

The applicant then presents its case through a series of witnesses or panels of witnesses. After the applicant's counsel has completed examination of each of the applicant's witnesses or panels, each intervenor in turn is given the opportunity to cross-examine those witnesses. The Comptroller's Counsel and staff usually cross-examine last. The Comptroller may then ask questions. The applicant is given an opportunity to re-examine the witness. Intervenors may then present their own evidence through one or more witness panels. These panels can also be cross-examined.

After all parties have presented their evidence, the hearing enters the final argument stage. The applicant's argument is presented first, followed by argument from the intervenors. Finally, the applicant is given an opportunity to present reply argument. The Comptroller will decide whether to have final argument by way of oral presentation at the hearing, or in writing. Intervenors and the applicant are given a deadline for written argument. Once all argument is finished, the hearing is adjourned.

The Decision

The hearing is concluded when the Comptroller makes a decision on the application. The decision is based only on the evidence presented during the public hearing and is provided in written form, including reasons.

Decisions of the Comptroller are available free of charge upon request and are sent to all participants of the public hearing.