

§ 1.362

method authorized by any applicable statute or by the rules of evidence at common law.

§ 1.362 Production of statements.

After a witness is called and has given direct testimony in a hearing, and before he is excused, any party may move for the production of any statement of such witness, or part thereof, pertaining to his direct testimony, in possession of the party calling the witness, if such statement has been reduced to writing and signed or otherwise approved or adopted by the witness. Such motion shall be directed to the presiding officer. If the party declines to furnish the statement, the testimony of the witness pertaining to the requested statement shall be stricken.

[33 FR 466, Jan. 12, 1968]

§ 1.363 Introduction of statistical data.

(a) All statistical studies, offered in evidence in common carrier hearing proceedings, including but not limited to sample surveys, econometric analyses, and experiments, and those parts of other studies involving statistical methodology shall be described in a summary statement, with supplementary details added in appendices so as to give a comprehensive delineation of the assumptions made, the study plan utilized and the procedures undertaken. In the case of sample surveys, there shall be a clear description of the survey design, including the definition of the universe under study, the sampling frame, and the sampling units; an explanation of the method of selecting the sample and the characteristics measured or counted. In the case of econometric investigations, the econometric model shall be completely described and the reasons given for each assumption and statistical specification. The effects on the final results of changes in the assumptions should be made clear. When alternative models and variables have been employed, a record shall be kept of these alternative studies, so as to be available upon request. In the case of experimental analyses, a clear and complete description of the experimental design shall be set forth, including a specification of the controlled conditions and

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how the controls were realized. In addition, the methods of making observations and the adjustments, if any, to observed data shall be described. In the case of every kind of statistical study, the following items shall be set forth clearly: The formulas used for statistical estimates, standard errors and test statistics, the description of statistical tests, plus all related computations, computer programs and final results. Summary descriptions of input data shall be submitted. Upon request, the actual input data shall be made available.

(b) In the case of all studies and analyses offered in evidence in common carrier hearing proceedings, other than the kinds described in paragraph (a) of this section, there shall be a clear statement of the study plan, all relevant assumptions and a description of the techniques of data collection, estimation and/or testing. In addition, there shall be a clear statement of the facts and judgments upon which conclusions are based and a statement of the relative weights given to the various factors in arriving at each conclusion, together with an indication of the alternative courses of action considered. Lists of input data shall be made available upon request.

[35 FR 16254, Oct. 16, 1970]

§ 1.364 Testimony by speakerphone.

(a) If all parties to the proceeding consent and the presiding officer approves, the testimony of a witness may be taken by speakerphone.

(b) Documents used by the witness shall be made available to counsel by the party calling the witness in advance of the speakerphone testimony. The taking of testimony by speakerphone shall be subject to such other ground rules as the parties may agree upon.

[43 FR 33251, July 31, 1978]

Subpart C—Rulemaking Proceedings

AUTHORITY: 5 U.S.C. 553.

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