

**APPENDIX C**

**PHASE 2 WORKSHOP PROTOCOLS**

## **Recommended Protocols for R.08-11-005 Workshops**

### **1. PURPOSE OF WORKSHOP**

The purpose of the workshop in R.08-11-005 is to collaboratively explore the proposed rule changes (PRCs) relating to General Orders 95 and 165, and other issues within the scope of Phase 2, and to the extent possible to agree on specific PRCs to be recommended for adoption by the Commission.

### **2. WORKSHOP REPORT**

The final product of the workshop will be a written workshop report that documents the agreed-upon PRCs and -- if necessary -- alternative PRCs. The workshop report will be filed with the Commission or otherwise made a part of the official record in this proceeding as directed by the assigned Administrative Law Judge (ALJ).

- 2.1 Each agreed-upon PRC and alternative PRC will include specific text proposed to be added, deleted or modified, and a statement of supporting rationale.

### **3. WORKSHOP PARTICIPANTS**

Workshop "Participant" is defined as any representative of a party to this proceeding who participates in discussing one or more of the PRCs during one or more scheduled workshop meetings. A party may bring as many representatives to participate in the workshop as it deems necessary to address the issues. A primary contact/spokesperson for each party shall be designated for purposes of notices and document distribution.

### **4. WORKSHOP AGENDA**

An agenda for each workshop meeting will be developed by the Participants starting at the beginning of the first meeting, and will be updated through the workshop meetings as agreed by the Participants. The agenda will specify the date, time, location and host /contact person for the meeting and will list the PRCs to be addressed at the meeting.

- 4.1 To the extent possible, PRCs requiring the presence of Participants with special qualifications or expertise are to be scheduled for discussion on the same or consecutive days.
- 4.2 The Participants may agree to defer a PRC if, during discussion, it becomes apparent that participants with special qualifications or expertise, not then present, are needed to adequately address the PRC.
- 4.3 A party represented by a single Participant may request that a PRC of particular interest to them not be addressed on a specific date if they

cannot be present on that date. Such request should be made as soon as the party's scheduling constraint becomes known to them, and all reasonable efforts shall be made to accommodate such requests.

## **5. DISCUSSION PRINCIPLES**

- 5.1 The discussion of PRCs will be governed by the following general principles:
  - 5.1.1 Describe the rationale for the PRC. Specific circumstances at issue in the OIIs pending before the Commission will not be considered.
  - 5.1.2 Identify and understand the Participants' respective points of view, interests and desired outcomes relative to the PRC.
  - 5.1.3 Obtain (to the extent feasible) data that Participants believe is necessary to understand the issues and make an informed decision on the PRC.
  - 5.1.4 Address all interests insofar as possible.
- 5.2 During meetings, opportunities will be allowed for a brief ongoing evaluation of progress and process ("process checks").

## **6. DECISION MAKING PROCESS**

- 6.1 Agreement should be sought utilizing the "levels of agreement" process:
  - 6.1.1 Agreement is defined as no votes at Level 2.
  - 6.1.2 Levels of agreement scale:
    - Level 1 - I support/can live with this PRC.
    - Level 2 - I do not support/cannot live with this PRC.
    - Level 3 - I abstain/am neutral.
  - 6.1.3 Each party shall state a single level of agreement, regardless of how many Participants it has brought to the workshop meeting.
  - 6.1.4 A "straw vote" to ascertain the level of support for, or opposition to, a PRC may be called for at any time and shall be held prior to any final vote.
  - 6.1.5 Tentative working agreements may be reached on parts of complex PRCs, subject to final agreement on the entire PRC.

- 6.1.6 If no party gives the PRC a “2”, the PRC is agreed upon as submitted. Otherwise the PRC is either:
  - 6.1.6.1 Submitted to a smaller working group or Committee to refine outside of the workshop process to be brought back for later consideration;
  - 6.1.6.2 Assigned to a Multiple Alternatives Process (MAP) in which one or more parties, individually or in small working groups, return to a later workshop meeting with alternative PRCs; or
- 6.1.7 If a PRC is assigned to a MAP but does not lead to agreement, the proponent(s) of each MAP alternative may submit their alternative(s), for a vote by workshop Participants. Each such alternative, together with the voting results and any statements of rationale Participants wish to provide regarding the alternative, will be included in the Workshop Report.
- 6.1.8 If a PRC or MAP alternative is not voted on by Participants or is withdrawn by its proponent(s) it will not be included in the Workshop Report.
- 6.2 Parties are responsible to have an informed Participant at each meeting who has authority to discuss the topics to be addressed in that meeting, and who will seek management input prior to each confirmation agenda in order to expedite the work of the workshop.
- 6.3 Any party that, without prior notice to the other parties, is absent from a meeting at which a PRC is agreed upon, is deemed to have abstained from the determination of levels of agreement, and has waived the opportunity to challenge the PRC or propose an alternative PRC. This protocol may be waived by agreement of the parties at a subsequent meeting in the event the party’s absence was due to circumstances beyond its control.
- 6.4 Agreed-upon PRCs will be placed on a confirmation agenda, to be addressed at the start of the subsequent group of meetings, in order to allow parties time to seek final approval of the PRCs by their respective managements, when such approval has been stated by parties to be necessary. Any party may remove any PRC from the confirmation agenda for further workshop consideration, based on their management’s direction.
- 6.5 Each Participant is responsible to keep his or her organization/constituency group(s) informed of the progress of the workshops and to timely seek advice, comments and authorization as required.

6.6 Participation by Proxy

Parties represented by a single Participant may designate another Participant to serve as their proxy for purposes of expressing levels of agreement, if they are unable to attend a workshop meeting. In order to utilize a proxy, the party must satisfy the following requirements:

- 6.6.1 The party shall notify the other parties by email or facsimile at least 1 business day prior to the meeting at which they expect to be absent;
- 6.6.2 The party shall provide clear directions to the proxy regarding any limitations on the proxy's authority, in the event the PRC is modified in the course of discussion; and
- 6.6.3 The proxy must inform the facilitator and Participants of their role at the beginning of the meeting.

**7. COMMUNICATIONS AND PUBLIC NOTICE**

- 7.1 Any or all Participants may meet or conference call among themselves between workshop meetings as desired or necessary to negotiate an advancement of their work.
- 7.2 Audio and video recording devices are not to be used in meetings for any purpose. Participants are encouraged to explore ideas freely and the only agreements are those explicitly reached.
- 7.3 The Facilitators shall be designated to keep the assigned ALJ informed of the dates, times, location and host contacts for upcoming workshop meetings, in time for that information to be posted on the Commission's website and to be periodically issued in rulings as the ALJ deems appropriate.

**8. INFORMATION MANAGEMENT**

- 8.1 A meeting summary will be prepared following each working group meeting stating:
  - 8.1.1 All Participants at the meeting, including their e-mail addresses;
  - 8.1.2 Key points of discussion, including PRCs discussed;
  - 8.1.3 Agreements, if any, with supporting rationale and vote tallies; and
  - 8.1.4 MAP proposals, if any.

- 8.2 The meeting summary will be prepared by a designated Participant. Meeting summaries will be available as soon as practicable and will be emailed to all Participants. The meeting summary will be reviewed for corrections by the Participants, preferably by email or teleconference between workshop meetings.
- 8.3 Information deemed worthy of distribution to Participants will also be posted to the GO 95/128 Rules Committee website: [go95-rc.com](http://go95-rc.com).
  - 8.3.1 Workshop Participants, and the parties they represent, reserve all rights to preserve the confidentiality of information in their possession, and participation in the workshop shall not be implied or understood to constitute a waiver of such rights.

## **9. PARTICIPANT ROLES**

- 9.1 The Facilitators
  - 9.1.1 Consistent with the Phase 2 scoping memo and any amendments to it, work on behalf of the Participants under the direction of the Participants;
  - 9.1.2 Make participation easier and encourage participation by all who wish to participate;
  - 9.1.3 Remind Participants of the protocols as necessary;
  - 9.1.4 Suggest strategies to move the discussion along, as appropriate;
  - 9.1.5 Consistent with the Phase 2 scoping memo and any amendments to it, carry out such other supportive activities as agreed upon by the Participants or as directed by the ALJ.
- 9.2 The Participants:
  - 9.2.1 Listen carefully, ask pertinent questions and educate themselves and others regarding the issues and interests that must be addressed, in a collaborative rather than confrontational manner.
  - 9.2.2 Fully and thoughtfully explore the issues before forming conclusions.
  - 9.2.3 Search for creative solutions that best serve the issues and interests that must be addressed.

## **10. WORKSHOP ACCESS AND ACCOMMODATIONS**

Workshops shall be scheduled in locations that comply with the Americans with Disabilities Act.