

My name is David Gutierrez, I am studying administrative law at Del Mar College in Corpus Christi, Texas. I would like to comment on the FCC's proposed rule because of my interest in preserving the requirements originally set out by the APA.

This comment is regarding the Commission's proposed rule that would allow a streamlined approach to its hearings. The synopsis provided on the federal register states that the change that is requested would streamline the hearing process which is typically conducted like a trial in a civil case and includes, live testimony, cross-examination, and the initial decision by an ALJ.

My opinion is that the current rules should stay the same and I will further detail my reasoning below:

The Commission's solution involves reliance on written testimony and documentary evidence in lieu of live testimony and cross examination. This rule would greatly underpower the applicant in that it goes against the APA's provision in section 556(d) which states that a party is entitled "to conduct such cross examination as may be required for a full and true disclosure of the facts."

Since the APA does not follow the Federal Rules of Evidence, the introduction of documentary evidence could be prejudicial if it is submitted without the other party being able to review and examine the evidence presented. In *Richardson v. Perales*, one would learn the importance of cross examination when it comes to the submission of written evidence. In *Richardson*, the court determined that reports, even when they may be considered hearsay, are allowed to be introduced at agency level and that cross examination is a due process right that should be utilized at the agency level when challenging unsworn written evidence. My interpretation of this case and its relation to the proposed rule is that the Commission's new rule would affect due process by discouraging cross examination, reliance solely on written evidence, and discouraging formal hearings.