

29 Offer of proof:

An offer of proof may be made when the Hearing Officer rules that a party may not examine a witness or offer exhibits on a topic to which an objection has been sustained. The party adversely affected by the ruling may state that it wishes to make an offer of proof. This allows the party to describe the evidence on the record so that a ruling can be reviewed. The Hearing Officer permits the party to make the offer by stating: "I will hear the offer" or "you may proceed with your offer." The offer is made in one of three ways, depending on the discretion of the Hearing Officer:

- a) Verbally by the offering party -- The party states on the record what the evidence would be if permitted to proceed.
- b) Question and answer by a witness -- The examining party has the witness answer questions on the record as in a normal examination. This is only suitable if the questioning is brief.
- c) Written statement which is included in the record as the offer of proof.

No cross-examination pertaining to the offer of proof is permitted. The Hearing Officer decides upon conclusion of the offer whether the testimony or exhibit is relevant and material to the issue involved. In ruling on the offer, the Hearing Officer states whether the previous ruling on the objection stands or is reversed. If the previous ruling sustaining the objection is reversed, the party may proceed to question the witness. If the objection is sustained, the matter is then in the record for the reviewing official to decide whether the Hearing Officer's ruling was proper. If correct, the evidence is not considered in making the ultimate decision. If, on review, the evidence is found to be relevant, then the matter may be remanded for further examination.

