Racing Rules of Sailing

Rule 63.6

A submission from US SAILING

Purpose or Objective

To correct a contradiction between current rules 63.3(b) and 63.6, and to require a protest committee member who saw the incident that led to a hearing to disclose that fact and to give testimony about the incident only while evidence is being taken during the hearing.

Proposal 1

63.6 Taking Evidence and Finding Facts

The protest committee shall take the evidence of the parties present at the hearing and of their witnesses and other evidence it considers necessary. A member of the protest committee who saw the incident may give evidence, but only in the presence of those parties. A party present at the hearing may question any person who gives evidence. The committee shall then find the facts and base its decision on them.

Proposal 2

63.6 Taking Evidence and Finding Facts

The protest committee shall take the evidence of the parties to the hearing and of their witnesses and other evidence it considers necessary. A member of the protest committee who saw the incident shall disclose that fact to the protest committee and may give evidence. A party to the hearing may question any person who gives evidence. The committee shall then find the facts and base its decision on them.

Current Position

As above.

Reason for Proposal 1

If a party to a protest or request for redress does not come to the hearing, the protest committee, acting under rule 63.3(b), may nevertheless conduct the hearing and decide the protest or request. However, rule 63.6 directs the protest committee to take the evidence of “the parties”, and it makes no exception for a party that does not come to the hearing. Changing “parties to the hearing” to “parties present at the hearing” removes the contradiction between those two rules. The change in
the penultimate sentence from “A party to the hearing” to “A party present at the hearing” is made for the same reason.

The right of the parties to be present throughout the hearing of all the evidence, granted by rule 63.3(a), and the right to question any person who gives evidence are fundamental to the fairness of the hearing process. It follows that, when a protest committee member has seen an incident and gives evidence, that evidence must be given in the presence of the parties. Currently, this important principle is found only as a recommendation to the protest committee in Appendix M, paragraph M3.2. The addition of “but only in the presence of those parties” makes this practice a requirement, rather than just a recommendation.

Reason for Proposal 2

Under current rule 63.6, a judge could base his (or her) decision regarding an incident on what he saw without disclosing the fact that he saw the incident to either the other members of the protest committee or the parties. Therefore, that decision could be influenced by information that was not made available to the rest of the committee and was not subject to questioning by the parties or the other judges. Proposal 2 would reduce the chance that this injustice would occur.

A companion submission proposes changes in Appendix M, paragraph 3.2, 7th bullet point.