

# Rule 001

## Rules of Practice

This rule as amended was approved by the Alberta Utilities Commission on September 27, 2011 and is effective on October 1, 2011.

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## Interpretation of rules

**1** These rules must be liberally construed in the public interest to ensure the most fair, expeditious and efficient determination on its merits of every proceeding before the Commission.

## Definitions

**2** In these rules:

- (a) “act” means the *Alberta Utilities Commission Act* and any other enactment under which the Commission is charged with the conduct of a hearing or other proceedings;
- (b) “applicant” means a person who files an application with the Commission;
- (c) “application” means an application to the Commission for an approval, licence, order or other relief under the act or any other enactment;
- (d) “Commission” means the Alberta Utilities Commission;
- (e) “Crown” means Her Majesty the Queen in the right of Alberta;
- (f) “document” includes films, photographs, charts, maps, graphs, plans, surveys, books of account, transcripts, and video and audio recordings;
- (g) “electronic hearing” means an oral hearing conducted by conference telephone or other electronic means where each participant is able to hear and respond to the comments of the other participants at the time the comments are made;
- (h) “facility” means a hydro development, power plant or transmission line under the *Hydro and Electric Energy Act* or a gas utility pipeline under the *Gas Utilities Act*;
- (i) “file” means file with the Commission;
- (j) “hearing” means a hearing before the Commission;

- (k) “information request” means a request for information described in Section 29;
- (l) “intervener” means a person, other than an applicant, who files a submission with the Commission in respect of a hearing or other proceeding;
- (m) “notice of application” means a notice of application issued by the Commission under Section 22;
- (n) “notice of hearing” means a notice of hearing issued by the Commission under Section 23;
- (o) “oral hearing” means a hearing at which the participants attend in person before the Commission;
- (p) “party” means
  - (i) an applicant,
  - (ii) an intervener,
  - (iii) Market Surveillance Administrator for purposes of sections 51 and 52 of the act, and
  - (iv) for the purposes of these rules, any other person whom the Commission determines to be a party to a proceeding;
- (q) “proceeding” means a matter brought before the Commission
  - (i) by application, or
  - (ii) by the Commission on its own initiative;
- (r) “publication” means a rule, bulletin or other document issued by the Commission;
- (s) “representative” means the agent of or solicitor of a party;
- (t) “written hearing” means a hearing held by means of an exchange of documents whether in writing or in electronic form.

### **Application of rules**

**3** These rules apply to all utilities hearings or other proceedings of the Commission, other than appeals under Part 8 of the act.

## **Part 1 General Matters**

### **Directions**

**4** The Commission may, at any time before making a decision on a hearing or other proceeding, issue any directions that it considers necessary for the fair determination of an issue.

### **On-site visits**

**5** The Commission may, with or without the parties, conduct an on-site visit of lands or facilities to better determine any matter relevant to the disposition of a hearing or other proceeding before it.

### **Setting of time limits and extending or abridging time**

**6(1)** The Commission may set time limits for doing anything provided for in these rules.

**(2)** The Commission may, on its own initiative or on motion by a party, extend or abridge a time limit specified in these rules or by the Commission, on any terms that the Commission considers appropriate.

**(3)** The Commission may, with or without a hearing, exercise its discretion under this section before or after the expiration of a time limit specified in these rules or by the Commission.

### **Variation of rules**

**7** The Commission may, with or without a hearing, dispense with, vary or supplement all or any part of these rules if it is satisfied that the circumstances of any hearing or other proceeding require it.

### **Failure to comply with rules**

**8(1)** If a party fails to comply with these rules or a direction of the Commission, the Commission may

- (a)** make an order that the Commission considers appropriate to ensure the fair determination of an issue, or
- (b)** adjourn the hearing or other proceeding until it is satisfied that these rules or the direction of the Commission has been complied with.

**(2)** If a party fails to comply with a time limit specified in these rules or by the Commission for the filing of documentary evidence or other material, the Commission may disregard the documentary evidence or material.

**(3)** No hearing or other proceeding is invalid by reason of a defect or other irregularity in form.

## **Motions**

**9(1)** If a matter arises in a hearing or other proceeding, other than during an oral hearing or electronic hearing, that requires a decision or order of the Commission, a party may bring the matter before the Commission by filing a motion.

**(2)** A motion brought under subsection (1) must

- (a) be in writing,
- (b) briefly describe
  - (i) the decision or order sought,
  - (ii) the grounds on which the motion is made, and
  - (iii) the nature of any oral or documentary evidence sought to be presented in support of the motion,

and

- (c) be accompanied with
  - (i) an affidavit setting out a clear and concise statement of the facts relevant to the motion, and
  - (ii) any documents that may support the motion.

**(3)** A party bringing a motion under subsection (1) shall serve a copy of it on the other parties.

**(4)** A party who wishes to respond to a motion brought under subsection (1) shall file and serve, as directed by the Commission, a response.

**(5)** A response under subsection (4) must

- (a) be in writing,
- (b) briefly describe the nature of any oral or documentary evidence sought to be presented in support of the response, and
- (c) be accompanied with any documents that may support the response.

**(6)** A party who wishes to reply to a response to a motion under subsection (4) shall file and serve, as directed by the Commission, a reply.

**(7)** A reply under subsection (6) must

- (a) be in writing,

(b) briefly describe the nature of any oral or documentary evidence sought to be presented in support of the reply, and

(c) be accompanied with any documents that may support the reply.

**(8)** If the Commission decides to hear a motion brought under subsection (1), the Commission shall give at least two days' notice to each party stating the time and place of the hearing.

**(9)** If a matter arises in an oral hearing or electronic hearing that requires a decision or order of the Commission, a party may bring the matter before the Commission by making a motion.

**(10)** A motion brought under subsection (9)

(a) may be made orally, and

(b) must be disposed of in accordance with such procedures as the Commission may order.

### **Submissions**

**10(1)** Where a person files a submission objecting to a proposed application for a facility, the person shall indicate the following:

(a) the right of the person that may be directly and adversely affected by a decision of the Commission on the proposed application;

(b) the manner in which the right may be directly and adversely affected by a decision of the Commission on the proposed application;

(c) the location of the land, residence or activity of the person in relation to the location of the proposed facility;

(d) the name, address in Alberta, telephone number, fax number, if any, and if available, an email address of the person.

**(2)** The person making a submission under subsection (1) shall serve a copy of the submission on the proponent of the proposed application.

### **Filing of documents**

**11(1)** If a person or party is required to file a document with the Commission, the person shall

(a) file the original and the required number of copies of the document, as set out in the relevant statutory provision or publication, and

(b) indicate on the original document

(i) the application number,

- (ii) the date of filing, and
  - (iii) the name of each person on whom the person or party will serve or has served a copy of the document.
- (2) Subsection (1)(b)(i) does not apply if the document is a form of application.
- (3) Where a person files a submission or other document in relation to a proposed application prior to the filing of an application or the commencement of a hearing or other proceeding, the person shall file the original document in accordance with subsection (1)(a).
- (4) Subject to subsection (5), a document may be filed by personal delivery, courier service, ordinary mail, fax, electronic means or by any other means directed by the Commission.
- (5) If a document is filed by fax or electronic means, the original and the required number of copies of the document, if required by the relevant statutory provision or publication, must be delivered to the Commission by the end of the next business day or as directed by the Commission.
- (6) A document may only be filed by electronic means if
  - (a) the electronic means is compatible with the Commission's information technology, equipment, software and processes, and
  - (b) the document is in a form acceptable to the Commission.
- (7) A document is deemed to have been filed when it is received by the Commission unless it is received after the Commission's business hours, in which case the document is deemed to have been filed on the next business day of the Commission.
- (8) The Commission may require that all or any part of a document filed be verified by affidavit.

### **Service of documents**

- 12(1)** Subject to subsection (2), a document required to be served under these rules or by the Commission may be served on a person or party
- (a) by personal delivery,
  - (b) by courier service, ordinary mail, fax or electronic means to the address given by the person or party, or
  - (c) by such other method as the Commission directs.
- (2) If a person or party required to serve a submission or other document on a proponent of a proposed application or an applicant and fails to do so, the Commission may serve a copy of the submission or other document on the proponent or the applicant.

- (3) A document may only be served by electronic means if the person or party being served has the information technology, equipment, software and processes for receiving or retrieving the document.
- (4) The date of service of a document is the day on which the person or party being served receives the document unless it is received after 5 p.m. Mountain Standard Time, in which case the date of service is deemed to be the next business day.
- (5) The Commission may require a person to file an affidavit of service setting out on whom a document was served and the means taken to effect service.
- (6) Where an oral hearing or electronic hearing is in progress, a party entering a document as an exhibit shall provide copies of the document to the Commission, the Commission staff attending the hearing and the other parties.
- (7) The Commission may serve, or direct the applicant to serve, a notice issued by the Commission either in accordance with this section or by public advertisement in a daily or weekly newspaper in circulation in the community affected by the proceeding.
- (8) Any document required to be served on a party under these rules may be served on the party's representative.

### **Public record**

**13(1)** Subject to this section, all documents filed in respect of a hearing or other proceeding, including any submissions or other documents filed prior to the commencement of the hearing or other proceeding, must be placed on the public record.

- (2) If a party wishes to keep confidential any information in a document, the party may, before filing the document, file a request for confidentiality and serve a copy of the request on the other parties.
- (3) The request for confidentiality must
- (a) be in writing,
  - (b) briefly describe
    - (i) the nature of the information in the document, and
    - (ii) the reasons for the request, including the specific harm that would result if the document were placed on the public record,
- and
- (c) indicate whether all or only a part of the document is the subject of the request.
- (4) The Commission may, with or without a hearing, grant a request for confidentiality on any terms it considers appropriate

- (a) if the Commission is of the opinion that disclosure of the information could reasonably be expected
  - (i) to result in undue financial loss or gain to a person directly affected by the hearing or other proceeding or to a party, or
  - (ii) to harm significantly that person's or party's competitive position,or
- (b) if
  - (i) the information is personal, financial, commercial, scientific or technical in nature,
  - (ii) the information has been consistently treated as confidential by a person or party directly affected by the hearing or other proceeding, and
  - (iii) the Commission considers that the person's or party's interest in confidentiality outweighs the public interest in the disclosure of the proceeding.

**(5)** If the Commission grants a request for confidentiality under subsection (4), a party may only receive a copy of the document if the party files an undertaking stating that the party will hold the document in confidence and use it only for the purpose of the proceeding.

**(6)** Nothing in this section limits the operation of any statutory provision that protects the confidentiality of information or documents.

### **Technical reports**

**14** A document containing a technical report or material of a technical nature must indicate the technical qualifications of the person signing or taking responsibility for the report or material.

### **Revisions to documents**

**15(1)** Despite any other provision in these rules, the Commission may, on any terms it considers appropriate,

- (a) allow a revision of all or any part of a document, or
- (b) order the revision of all or any part of a document that in the opinion of the Commission is
  - (i) not relevant or may tend to prejudice or delay a fair hearing of an application or other proceeding on the merits, or
  - (ii) necessary for the purpose of hearing and determining the pertinent questions in issue in the proceeding.

- (2) A party shall revise a document if
- (a) significant new information relating to the document becomes available before the hearing or other proceeding is disposed of, and
  - (b) the information is necessary for the purpose of a hearing or other proceeding and determining the pertinent questions in issue in the hearing or other proceeding.
- (3) Any document that is revised must clearly indicate the date of the revision and the part of the document that is revised.

### **Affidavits**

**16(1)** An affidavit intended to be used in a hearing or other proceeding must be confined to those facts within the knowledge of the person making the affidavit or based on the information and belief of the person making the affidavit.

(2) If a statement is made in an affidavit on information and belief, the source of the information and the grounds on which the belief is based must be set out in the affidavit.

(3) If an affidavit refers to an exhibit, the exhibit must be marked as such by the person making the affidavit and attached to the affidavit.

### **Evidence**

**17(1)** Unless the Commission otherwise directs, if a party intends to present documentary evidence at an oral hearing or electronic hearing, or is directed to do so by the Commission, the party shall file the documentary evidence and serve a copy of it on the other parties before the hearing takes place.

(2) The documentary evidence must be accompanied with a statement setting out the qualifications of the person who prepared the documentary evidence or under whose direction or control the evidence was prepared.

(3) If a party is not able to file all of the party's documentary evidence before the hearing takes place, the party shall

- (a) file such documentary evidence as is available at that time, and
- (b) file a statement
  - (i) identifying the balance of the documentary evidence to be filed, and
  - (ii) stating when the balance of the documentary evidence will be filed.

(4) If a party is not willing to file documentary evidence when directed to do so by the Commission under subsection (1), the party shall file a statement setting out the reasons why the party is not willing to do so.

## **Additional information, documents and material**

**18(1)** The Commission may direct the applicant or an intervener to file such further information, documents or material as the Commission considers necessary to permit a full and satisfactory understanding of an issue in a hearing or other proceeding.

**(2)** If the applicant or the intervener does not file the information, documents or material when directed to do so by the Commission under subsection (1), the Commission may

- (a)** adjourn the hearing or other proceeding until the information, documents or material is filed, or
- (b)** dismiss the application or submission, as the case may be.

## **Part 2 Commencement of Proceedings**

### **Commencement of proceedings**

**19(1)** Subject to subsection (2), a hearing or other proceeding must be commenced by filing an application.

**(2)** A proceeding initiated by the Commission may be commenced by a notice of hearing or as determined by the Commission.

### **Form of application**

**20(1)** An application must be in writing and contain the information required by the applicable Commission rules respecting the application.

**(2)** If rules regarding a particular application have not been issued by the Commission, a written application must set out the following:

- (a)** a description of the approval, order or other relief applied for;
- (b)** the grounds on which the application is made;
- (c)** a reference to the statutory provision under which the application is made;
- (d)** a clear and concise statement of the facts relevant to the application;
- (e)** an explanation of the consultation process, if any, that the applicant has held with persons whose rights may be directly and adversely affected by the hearing or other proceeding;
- (f)** any other information that may be useful in explaining or supporting the application;
- (g)** the applicant's name, address in Alberta, telephone number, fax number and, if available, email address;

- (h) if the applicant is represented by a representative, the representative's name, address in Alberta, telephone number, fax number and, if available, email address.
- (3) The applicant shall serve a copy of the application on any person whose rights may be directly and adversely affected by a decision of the Commission on the hearing or other proceeding.
- (4) If an application is not complete, the Commission may close and return the application with an explanation of the deficiencies in the application.

### **Withdrawal of application or submission**

**21(1)** If an applicant wishes to withdraw an application before a hearing or other proceeding is held, the applicant shall file a notice of withdrawal of application in writing and serve a copy of the notice on the other parties.

(2) The Commission may, with or without a hearing, grant an application to withdraw an application on any terms that it considers appropriate.

(3) If an applicant does not take any steps with respect to an application within the time specified in these rules or by the Commission, the Commission may declare the application to be withdrawn, unless the applicant shows cause why the application should not be withdrawn.

(4) If an intervener wishes to withdraw a submission before a hearing is held, the intervener shall file a notice of withdrawal in writing and serve a copy of the notice on the other parties.

### **Notice of application**

**22(1)** If the Commission is considering deciding on an application without a hearing, the Commission may issue a notice of application.

(2) Notwithstanding subsection 22(1), if the Commission is considering an application respecting Section 37, Section 102, Section 103 (except for the electric energy charge) or Section 119 of the *Electric Utilities Act*, Section 26 or Section 36 of the *Gas Utilities Act*, Section 3 (except for the gas charge) of the *Default Gas Supply Regulation*, Section 101 of the *Public Utilities Act*, or Section 45 of the *Municipal Government Act*, the applicant shall prepare a draft notice of application in accordance with the requirements of subsection 22(3) of this rule. The draft notice of application shall be filed with the Commission in accordance with these rules of practice and any other direction that the Commission may provide.

- (3) A notice of application must
  - (a) be in writing,
  - (b) briefly describe the subject matter of the application,
  - (c) indicate the date by which a submission must be filed,

- (d) state that the Commission may grant the application without a hearing or any additional process if the Commission considers the submission to be frivolous, vexatious or of little merit; or if the person filing the submission has not demonstrated that the person may be directly and adversely affected by a decision of the Commission on the hearing or other proceeding,
- (e) indicate that copies of the application and other documents filed in support of the application
  - (i) may be obtained from the applicant or the applicant's representative, and
  - (ii) are available for viewing at a location open to the public,
- (f) indicate the name and address in Alberta of the applicant or the applicant's representative where the application and other documents filed in support of the application may be obtained,
- (g) indicate the address of the location open to the public where the application and other documents are available for viewing, and
- (h) contain any other information that the Commission considers necessary.

**(4)** In addition to Section 22(2), if the Commission is considering an application respecting Section 37, Section 102, Section 103 (except for the electric energy charge) or Section 119 of the *Electric Utilities Act*, Section 26 or Section 36 of the *Gas Utilities Act*, Section 3 (except for the gas charge) of the *Default Gas Supply Regulation* or Section 101 of the *Public Utilities Act*, the applicant shall prepare a draft alert of notice of application. The draft alert of notice of application shall be filed with the Commission in accordance with these rules of practice and any other direction that the Commission may provide.

**(5)** An alert of notice of application must:

- (a) be in writing,
- (b) briefly describe the subject matter of the application,
- (c) indicate the date by which a submission must be filed, and
- (d) indicate where a person or persons may obtain or view the notice of application.

**(6)** If a submission is filed, the Commission may

- (a) set the application down for a hearing, or
- (b) grant the application if
  - (i) the Commission considers the submission to be frivolous, vexatious or of little merit, or

- (ii) the person filing the submission has not demonstrated that the person may be directly and adversely affected by a decision of the Commission on the proceeding.

### **Notice of hearing**

**23(1)** If the Commission decides to set an application down for a hearing, the Commission shall issue a notice of hearing.

**(2)** A notice of hearing must

- (a) be in writing,
- (b) briefly describe the subject matter of the hearing,
- (c) in the case of an oral or electronic hearing,
  - (i) indicate the date, time and place of the hearing, which must not be less than 10 days after the date of the notice, or
  - (ii) because of the complexity of the subject matter of the proceeding, indicate that the date, time and place of the hearing will be set after the filing of submissions by any interveners,
- (d) indicate that copies of the application and other documents filed in support of the application
  - (i) may be obtained from the applicant or the applicant's representative, and
  - (ii) are available for viewing at a location open to the public,
- (e) indicate the name and address in Alberta of the applicant or the applicant's representative where the application and other documents filed in support of the application may be obtained,
- (f) indicate the address of the location open to the public where the application and other documents are available for viewing and the hours during which they may be viewed,
- (g) contain a schedule showing the time limits for filing and serving submissions, responses to submissions, replies to responses to submissions, information requests, responses to information requests, documentary evidence and written argument, and
- (h) contain any other information that the Commission considers necessary.

### **Submission of intervener**

**24(1)** A person who wishes to intervene in a proceeding shall file a submission and serve a copy of it on the other parties within the time set out in the notice of hearing.

- (2) A submission must be in writing and contain the following:
- (a) a concise statement indicating
    - (i) for an application for a facility, the manner in which the intervener's rights may be directly and adversely affected by a decision of the Commission on the application,
    - (ii) the nature and scope of the intervener's intended participation,
    - (iii) the disposition of the hearing or other proceeding that the intervener advocates, if any,
    - (iv) the facts the intervener proposes to show in evidence,
    - (v) the reasons why the intervener believes the Commission should decide in the manner that the intervener advocates, and
    - (vi) the intervener's efforts, if any, to resolve issues associated with the hearing or other proceeding directly with the applicant;
  - (b) the name, address in Alberta, telephone number, fax number and, if available, email address of the intervener;
  - (c) if the intervener is represented by a representative, the name, address in Alberta, telephone number, fax number and, if available, email address of the representative;
  - (d) if the intervener is an unincorporated organization, the nature of the intervener's membership.
- (3) The Commission may, on receiving and examining a submission, do one or more of the following:
- (a) direct the intervener to serve a copy of the submission on such other persons or parties and in such a manner as the Commission specifies;
  - (b) direct the intervener to provide additional information to the Commission;
  - (c) direct the applicant or the intervener to make further submissions, either orally or in writing, on the original submission;
  - (d) decide that the intervener will not be heard because
    - (i) the submission is frivolous, vexatious or of little merit, or
    - (ii) the intervener has not shown that the decision of the Commission in the proceeding may directly and adversely affect the intervener's rights;

- (e) if the Commission is of the view that any matter set out in the submission is not in response to the application or has implications of importance beyond the application, direct a revision of the application or the submission that the Commission considers necessary.

### **Question of constitutional law**

**25** A person or party who intends to raise a question of constitutional law before the Commission must give notice in accordance with Section 12 of the *Administrative Procedures and Jurisdiction Act* and its regulation.

### **Applicant to provide documents and material**

**26** After an intervener files a submission under Section 24, the applicant shall provide the intervener with copies of any of the following documents and material that the applicant has not previously provided to the intervener:

- (a) the application and any other documents filed in support of the application;
- (b) any material filed as documentary evidence.

### **Late filing**

**27(1)** A party who wishes to file a document, or a person who wishes to file a submission as an intervener, after the time limit set out in the notice of hearing has elapsed, may request of the Commission leave to file the document or submission, as the case may be.

**(2)** The Commission may grant a request under subsection (1) on any terms that the Commission considers appropriate.

### **Adjournments**

**28** The Commission may, on its own initiative or on motion by a party, adjourn a hearing on any terms that the Commission considers appropriate.

### **Information request**

**29(1)** A party may request another party, within the time limit set out in the notice of hearing, to provide information necessary

- (a) to clarify any documentary evidence filed by the other party,
- (b) to simplify the issues,
- (c) to permit a full and satisfactory understanding of the matters to be considered, or
- (d) to expedite the proceeding.

**(2)** An information request under subsection (1) must

- (a) be in writing,
- (b) be directed to the party from whom a response is sought,
- (c) contain specific questions for clarification about the party's evidence, documents or other material that is in the possession of the party and relevant to the proceeding,
- (d) be filed and served as directed by the Commission, and
- (e) set out the date on which the information request is filed.

### **Response to information request**

**30(1)** A party who is served with an information request under Section 29 shall prepare a response that

- (a) repeats each question in the information request,
  - (b) provides a full and adequate response to each question, and
  - (c) identifies the individual or individuals who were responsible for preparing the response.
- (2)** A response under subsection (1) must
- (a) be in writing,
  - (b) be filed and served as directed by the Commission, and
  - (c) set out the date on which the response is filed.

### **Partial or no response**

**31(1)** If a party who is served with an information request under Section 29 is not able or not willing to prepare a response in accordance with Section 30, the party shall do one of the following:

- (a) if the party contends that the information request is not relevant, file and serve on the party making the request a response in writing that sets out the specific reasons in support of that contention;
- (b) if the party contends that the information necessary to provide an answer is not available or cannot be provided with reasonable effort, file and serve on the party making the request a response in writing that
  - (i) sets out the specific reasons in support of that contention, and
  - (ii) contains such other information that the party considers would be of assistance to the party making the information request;

- (c) if the party contends that the information requested is confidential, file and serve on the party making the request a response in writing that sets out the specific reasons why the information is confidential and any harm that may be caused if it were disclosed.

(2) If a party is not satisfied with a response under subsection (1), the party may bring a motion under Section 9 requesting that the matter be settled by the Commission.

### **Pre-hearing meeting**

**32** The Commission may, on its own initiative or at the request of a party, direct that a pre-hearing meeting be held with the parties for one or more of the following purposes:

- (a) to determine the issues in question and the position of the parties, including matters relating to costs;
- (b) to recommend the procedures to be adopted with respect to the hearing or other proceeding;
- (c) to determine whether the parties may benefit from a settlement meeting to discuss the issues;
- (d) if an oral hearing or electronic hearing is to be held, to set the date, time and place for the oral hearing or electronic hearing and to fix the time to be allotted to each party to present evidence and argument;
- (e) to decide any other matter that may aid in the simplification or the fair and most expeditious disposition of the hearing or other proceeding.

### **Technical meeting**

**33** The Commission may direct the parties to participate in a technical meeting for the purpose of

- (a) reviewing and clarifying an application, a submission, a response to a submission, a reply to a response to a submission, an information request or a response to an information request, or
- (b) recommending procedures to be adopted with respect to the hearing or other proceeding.

### **Negotiated settlements**

**34** Where the parties engage in a negotiated settlement process as set out in Rule 018: *Rules on Negotiated Settlements*, as amended from time to time, published by the Commission, the provisions of that rule govern the negotiated settlement process.

## **Settlement meetings**

**35(1)** If the parties have not engaged in a negotiated settlement process under Section 34, the Commission may direct the parties to participate in a settlement meeting for the purpose of settling one or more of the issues in a proceeding or for recommending procedures to be adopted with respect to the hearing or other proceeding.

(2) A settlement meeting may not be transcribed or form part of the record of a hearing or other proceeding.

(3) The Commission may appoint a person to chair or facilitate a settlement meeting.

(4) All persons attending a settlement meeting shall treat admissions, concessions, offers to settle and related discussions as confidential and without prejudice.

(5) Admissions, concessions, offers to settle and related discussions in a settlement meeting are not admissible in any hearing or other proceeding without the consent of all affected parties.

## **Settlement proposal**

**36(1)** Where some or all of the parties reach an agreement following a settlement meeting under Section 35, the parties shall make and file a settlement proposal describing the agreement.

(2) The settlement proposal must identify for each issue those parties who agree with the settlement of the issue and those parties who do not agree with the settlement of the issue.

(3) The parties shall ensure that the settlement proposal contains or identifies sufficient evidence to allow the Commission to make findings on the issues.

## **Effect of settlement proposal**

**37(1)** After a settlement proposal is filed under Section 36, the Commission may

(a) hold a hearing to determine whether to accept or reject the settlement proposal,

(b) accept the settlement proposal, if it is in the public interest to do so and the evidence contained or identified in the settlement proposal is sufficient to allow the Commission to make findings on the issues, or

(c) reject the settlement proposal, if the Commission is of the view that

(i) the evidence contained or identified in the settlement proposal is not sufficient to allow the Commission to make findings on the issues, or

(ii) the public interest requires a hearing.

(2) If the Commission rejects a settlement proposal under subsection (1)(c), the Commission may direct the parties to make reasonable efforts to revise the settlement proposal.

## **Part 3 Hearings**

### **No electronic hearing**

**38** The Commission shall not hold an electronic hearing if a party satisfies the Commission that holding an electronic hearing is likely to cause the party significant prejudice.

### **Notice to attend**

**39(1)** The Commission may, on its own initiative or at the request of a party, issue a notice requiring a person to attend an oral hearing or electronic hearing as a witness and to produce the documents and material set out in the notice.

**(2)** The provisions of the *Alberta Rules of Court* (AR 390/68) relating to the payment of conduct money and witness fees apply to oral hearings and electronic hearings.

**(3)** Despite subsection (2), the Commission may increase the amount payable to an expert witness or in special circumstances where a witness attends an oral hearing or an electronic hearing as a result of a notice to attend.

### **Oath or affirmation**

**40** Unless the Commission otherwise directs, a witness at an oral hearing or electronic hearing must be examined orally on oath or affirmation.

### **Witness panels**

**41(1)** The Commission may permit evidence to be given by two or more witnesses sitting as a panel.

**(2)** Questions addressed to a witness panel may be directed at specific members of the panel or the panel in general.

**(3)** Unless the Commission otherwise directs, members of a witness panel may confer among themselves.

**(4)** Where a question is directed at a specific member of a panel and that member is not able to answer the question because of a lack of knowledge or qualifications, the Commission may permit another member of the panel to answer the question.

### **Presenting evidence**

**42(1)** Unless the Commission otherwise directs, no documentary evidence may be presented at an oral hearing or electronic hearing unless the evidence was filed and served in accordance with Section 17.

**(2)** A witness of a party presenting evidence at an oral hearing or electronic hearing shall

**(a)** confirm on oath or affirmation that the documentary evidence

- (i) was prepared by the witness or under the witness's direction or control, and
- (ii) is accurate to the best of the witness's knowledge or belief,

and

- (b) unless the Commission otherwise directs, confine the witness's testimony to matters set out in the documentary evidence or arising from evidence adduced in cross-examination.

(3) A witness may be

- (a) cross-examined by or on behalf of a party, or
- (b) examined by the Commission or a member of the Commission staff.

(4) During a recess of an oral hearing or electronic hearing, a witness who is under cross-examination may consult with the witness's counsel if it is necessary to respond to undertakings made before the Commission.

(5) No argument may be received by the Commission unless it is based on the evidence before the Commission.

### **Hearings in absence of the public**

**43(1)** Subject to subsections (2) and (3), all oral hearings and electronic hearings are open to the public.

(2) If the Commission considers it necessary to prevent the disclosure of intimate personal, financial or commercial matters or other matters because, in the circumstances, the need to protect the confidentiality of those matters outweighs the desirability of an open hearing, the Commission shall conduct all or part of the hearing in private.

(3) If all or any part of an oral hearing or electronic hearing is to be held in private, no party may attend the hearing unless the party files an undertaking stating that the party will hold in confidence any evidence heard in private.

### **Participation of the Crown**

**44(1)** The Crown may intervene in a hearing or other proceeding in accordance with these rules.

(2) Notwithstanding subsection (1), the Crown may file a written statement in evidence in a hearing or other proceeding and need not present a witness to file the statement, and must serve the statement on the other parties.

(3) Unless a statement filed by the Crown is presented by witness, the statement is not subject to cross-examination.

### **Submissions by Commission staff**

**45** If, in the opinion of the Commission, it is necessary or appropriate in the circumstances for a member of Commission staff or an expert hired by the Commission to participate in a hearing, the member of the Commission staff or the hired expert, as the case may be, may, in accordance with these rules, do one or more of the following:

- (a) file a submission;
- (b) present evidence;
- (c) cross-examine witnesses;
- (d) submit argument;
- (e) be cross-examined by or on behalf of a party;
- (f) be examined by the Commission or another member of the Commission staff.

### **Arguments**

**46** Arguments must be in a form as directed by the Commission.

### **Written hearings**

**47(1)** Where the Commission holds a written hearing or other proceeding, it may:

- (a) dispose of the hearing or other proceeding on the basis of the documents filed by the parties, or
- (b) require additional information and material from the parties before disposing of the proceeding.

**(2)** The Commission may determine at any time during a written hearing that the proceeding must be disposed of by means of an oral hearing or electronic hearing.

### **Correction of errors**

**48** The Commission may correct typographical errors, errors of calculation and similar errors made in any of its orders, decisions or directions.