

# Rule 001

## Rules of Practice

This November 1, 2016, draft version of Rule 001 has been prepared for the purposes of stakeholder consultation.

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**Part 1**  
**General matters**

**1 Definitions**

**1.1** In these rules:

- (a) “applicant” means a person who files an application or complaint with the Commission;
- (b) “application” means an application to the Commission for an approval, licence, order or other relief under the *Alberta Utilities Commission Act* or any other enactment;
- (c) “Commission” means the Alberta Utilities Commission;
- (d) “Crown” means Her Majesty the Queen in the right of Alberta or Her Majesty the Queen in the right of Canada;
- (e) “document” includes records, reports, films, photographs, charts, maps, graphs, plans, surveys, books of account, emails, transcripts and video and audio recordings;
- (f) “eFiling System” means the Commission’s regulatory electronic filing system;
- (g) “enforcement proceeding” means a proceeding initiated by the Commission to determine if a person contravened or failed to comply with a provision of any enactment under the jurisdiction of the Commission, any decision or order of the Commission or any Commission rule;
- (h) “file” means file with the Commission using the Commission’s eFiling System or, as otherwise directed by the Commission;
- (i) “ISO” means the Independent System Operator
- (j) “party” means
  - (i) an applicant,
  - (ii) a person, other than an applicant, with rights that may be directly and adversely affected by the Commission’s decision on an application, who participates in a proceeding to decide that application,

- (iii) a market participant that files an objection to an ISO rule in accordance with Section 20.4 of the *Electric Utilities Act*,
  - (iv) the Market Surveillance Administrator for purposes of sections 51 and 52 of the *Alberta Utilities Commission Act* and Section 20.4 of the *Electric Utilities Act*,
  - (v) a person named in a notice brought by the Market Surveillance Administrator to the Commission under sections 51 or 52 of the *Alberta Utilities Commission Act*,
  - (vi) a person named in a notice of enforcement proceeding issued by the Commission, and
  - (vii) any other person whom the Commission determines to be a party;
- (k) “proceeding” includes a matter before the Commission commenced by
- (i) application,
  - (ii) notice by the Market Surveillance Administrator,
  - (iii) complaint,
  - (iv) the filing of an ISO rule in accordance with Section 20.2 of the *Electric Utilities Act*, or
  - (v) the Commission on its own initiative;
- (l) “representative” means the agent of or solicitor of a person or party;
- (m) “supported format” is one of the following document format types:
- (i) MS Office (.doc, .docx, .xls, .xlsx, .ppt, .pptx, .vsd, .vsdx and .msg),
  - (ii) Adobe .pdf in optical character recognition (OCR) format and
  - (iii) image formats (.jpg, .jpeg, .png and .gif);
- (n) “unsupported format” means any document format type that is not a supported format.

## 2 Application and interpretation of rules

- 2.1** These rules apply to all proceedings of the Commission, other than appeals under Part 7 of the *Alberta Utilities Commission Act*.

- 2.2 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.
- 2.3 The Commission may, at any time before making a decision on a proceeding, issue any directions it considers necessary for the fair, expeditious and efficient determination of an issue.
- 2.4 The Commission may dispense with, vary or supplement all or any part of these rules if it is satisfied that the circumstances of any proceeding require it.
- 2.5 The Commission may set time limits for doing anything provided for in these rules and may extend or abridge a time limit set out in these rules or by the Commission, on any terms that it considers reasonable, before or after the expiration of the time limit.
- 2.6 No proceeding is invalid by reason of a defect or other irregularity in form.

### 3 Failure to comply with rules

- 3.1 If a person or party fails to comply with these rules or a direction of the Commission, the Commission may
  - (a) make any order that the Commission considers necessary to ensure the fair, expeditious and efficient determination of an issue; or
  - (b) adjourn the proceeding until it is satisfied that that the person or party has complied with these rules or the direction of the Commission.

### 4 Collection of personal information

- 4.1 In this section, the words “personal information” have the meaning given to them in the *Freedom of Information and Protection of Privacy Act*.
- 4.2 The Commission is required and authorized to collect, directly, or indirectly through a party, personal information, of persons whose rights may be directly and adversely affected by a decision of the Commission on an application so that the Commission can provide notice to those persons in accordance with Section 9 of the *Alberta Utilities Commission Act*.
- 4.3 Notwithstanding Section 16, the Commission will not place personal information contained in a document on the public record if a person requests, in writing, that the personal information contained in that document not be placed on the public record.
- 4.4 A request to keep personal information in a document confidential, including information in a statement of intent to participate, must be made to the Commission’s FOIP coordinator by email at [foip@auc.ab.ca](mailto:foip@auc.ab.ca) or by calling 403-592-4376. The request must include the document that contains the personal

information and specify the personal information that the person wants to be kept confidential.

- 4.5** If a person makes a request to keep personal information confidential under this section, the Commission will not place the personal information identified in the request on the public record.
- 4.6** If the Commission grants a request to keep personal information confidential under this section a party may only receive a copy of the document containing the personal information if the party files a personal information undertaking (Form RP1) stating that the party will hold the document in confidence and use it only for the purpose of the proceeding.

## **Part 2**

### **How to commence and participate in a proceeding**

#### **5 Commencement of proceedings**

- 5.1** A proceeding may be commenced by a person by filing
- (a) an application; or
  - (b) a complaint.
- 5.2** A proceeding may be commenced by the ISO by filing a rule in accordance with Section 20.2 of the *Electric Utilities Act*.
- 5.3** A proceeding may be commenced by the Market Surveillance Administrator by filing a notice under the *Alberta Utilities Commission Act*.
- 5.4** The Commission may commence a proceeding, including an enforcement proceeding, on its own initiative by a notice or as otherwise determined by the Commission.

#### **6 Form of application**

- 6.1** An application must be in writing and contain the information required by the applicable Commission rules respecting the application.
- 6.2** If rules regarding a particular application have not been issued by the Commission, an 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 Commission's decision on the application;
- (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 email address; and
- (h) if the applicant is represented by a representative, the representative's name, address in Alberta, telephone number, fax number and email address.

**6.3** If an application is not complete when filed, the Commission may

- (a) make an information request to the applicant; or
- (b) close and return the application with an explanation of the deficiencies in the application.

## **7 Service of AUC notices**

**7.1** The Commission may serve any notice for a proceeding by

- (a) filing the notice;
- (b) posting the notice on the Commission's website;
- (c) personal delivery;
- (d) mail, courier service, fax or electronic means to the address given by the person or party;
- (e) public advertisement in a daily or weekly newspaper in circulation in the community affected by the proceeding; or
- (f) such other method as the Commission directs.

## **8 Notice of enforcement proceeding**

**8.1** When the Commission commences an enforcement proceeding it must serve a notice of enforcement proceeding.

**8.2** A notice of enforcement proceeding must

- (a) be in writing;

- (b) identify the names of the persons concerned;
- (c) provide reasonable particulars of the alleged contravention or failure to comply;
- (d) describe the order or other relief that the Commission is considering; and
- (e) any other information that the Commission may direct.

## **9 Notice of application**

**9.1** 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 statement of intent to participate must be filed; and
- (d) contain any other information that the Commission considers necessary.

## **10 Statement of intent to participate**

**10.1** Unless otherwise directed, a person that wishes to participate in a proceeding before the Commission must complete and file a statement of intent to participate. (Form RP2)

## **11 Commission decision on statement of intent to participate**

**11.1** After receiving and examining a statement of intent to participate from a person, the Commission may

- (a) direct the person to provide additional information to the Commission; or
- (b) direct the applicant or the person to make further submissions, either orally or in writing.

**11.2** If the Commission is of the opinion that a person has demonstrated the existence of a right or rights that may be directly and adversely affected by the Commission's decision on the proceeding, the Commission shall set the proceeding down for a hearing.

**11.3** The Commission may decide that the person will not be heard if the person did not demonstrate that the Commission's decision on the proceeding may directly and adversely affect the person's rights.

## **12 Withdrawal of application or statement of intent to participate**

- 12.1** If an applicant wishes to withdraw an application it must file a written request to withdraw the application.
- 12.2** The Commission may allow an applicant to withdraw an application on any terms it considers necessary.
- 12.3** If an applicant does not take any steps with respect to an application within a time specified by the Commission, the Commission may declare the application to be withdrawn by a certain date, unless the applicant shows cause before that date why the application should not be declared to be withdrawn.
- 12.4** A person or party may withdraw a statement of intent to participate, by filing a written request to withdraw the statement of intent to participate and the withdrawal of the statement to participate will be effective upon filing of the request.

## **13 Decision without notice or further notice**

- 13.1** The Commission may issue a decision on a proceeding without serving notice if it is of the opinion that no person may be directly and adversely affected by its decision on the proceeding.
- 13.2** After serving a notice of application or a notice of hearing, the Commission may issue a decision without further notice
  - (a) if no person files a statement of intent to participate; or
  - (b) if the Commission decides that no person demonstrated that the Commission's decision on the proceeding may directly and adversely affect the person's rights.

## **14 Notice of hearing**

- 14.1** If the Commission decides to hold a hearing to decide a proceeding, the Commission shall serve a notice of hearing.
- 14.2** A notice of hearing will
  - (a) be in writing;
  - (b) briefly describe the subject matter of the hearing;
  - (c) for an oral hearing, indicate the date, time and place of the hearing; and
  - (d) contain any other information that the Commission considers necessary.

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

- 15.1** The applicant shall, upon request of a person or party who cannot access the eFiling System, provide the person or party with paper copies of any documents and material filed by the applicant on the eFiling System.

### **Part 3 Documents, evidence, filing and service**

## **16 Public record**

- 16.1** Subject to sections 4 and 28, all documents filed in a proceeding, including any documents filed prior to the commencement of the proceeding which directly relate to that proceeding, must be placed on the public record.

## **17 Filing of documents**

- 17.1** If a person or party is required to file a document with the Commission, the person shall indicate on the document:
- (a) the proceeding number; and
  - (b) the date of filing.
- 17.2** Where possible, a document shall be filed by electronic means in a supported format using the eFiling System.
- 17.3** If a person or party cannot file a document or form using the eFiling System because
- (a) the person or party has no reasonable means to access the Commission's eFiling System; or
  - (b) the person or party has no reasonable means of converting the document into a supported format,
  - (c) the person may file the document by personal delivery, courier service, ordinary mail, email, fax, or by any other means directed by the Commission.
- 17.4** If a person or party must file a document in an unsupported format, the person or party shall
- (a) complete and file an unsupported document description (Form RP3); and
  - (b) deliver the document in the unsupported format and, if necessary, the completed Form RP3, to the Commission and all other interested parties.
- 17.5** A document in an unsupported format 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.

- 17.6** The Commission may require that all or any part of a document filed be verified by affidavit.

## **18 Evidence**

- 18.1** All documentary evidence in a proceeding must be filed in accordance with the Commission's directions.

- 18.2** All documentary evidence filed in a proceeding 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.

## **19 Independent expert evidence**

- 19.1** A party may engage one or more independent expert witnesses to give opinion evidence in a proceeding on issues that are in the independent expert's area of expertise.

- 19.2** An independent expert's written evidence shall, at a minimum, include the following:

- (a) the expert's name, business name and address, and general area of expertise;
- (b) the independent expert's qualifications, including the expert's relevant educational and professional experience in respect of each issue in the proceeding to which the expert's evidence relates;
- (c) the instructions provided to the independent expert in relation to the proceeding and, where applicable, to each issue in the proceeding to which the expert's evidence relates;
- (d) an acknowledgement that he or she has a duty to provide evidence to the Commission that is fair, objective and non-partisan;
- (e) the specific information upon which the independent expert's evidence is based, including a description of any factual assumptions made and research conducted, and a list of the documents relied on by the expert in preparing the evidence; and
- (f) in the case of evidence that is provided in response to another independent expert's evidence, a summary of the points of agreement and disagreement with the other expert's evidence.

- 19.3** The Commission may require independent expert witnesses from different parties to confer with each other in advance of a hearing to narrow issues, identify points

on which their views differ or agree and prepare joint written statements to be admissible as evidence.

## **20 Affidavits**

- 20.1** An affidavit intended to be used in a proceeding as evidence 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.
- 20.2** 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.
- 20.3** If an affidavit refers to an exhibit or attachment, the exhibit or attachment must be attached to the affidavit.

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

- 21.1** The Commission may direct a party 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 proceeding.
- 21.2** If the party does not file the information, documents or material when directed to do so by the Commission under subsection 21.1, 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.

## **22 Revisions to documents**

- 22.1** Despite any other provision in Rule 001, the Commission may, on any terms it determines,
  - (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 proceeding on the merits, or
    - (ii) necessary for the purpose of hearing and determining the pertinent questions in issue in the proceeding.

- 22.2** A party shall revise a document if it identifies
- (a) a material error or omission in a document; or
  - (b) significant new information relating to the document that has become available before a proceeding is disposed of, and the information is material to the determination of the pertinent questions in the proceeding.
- 22.3** When a party intends to file a revised document with the Commission the party must complete a revised document description form (Form RP4) on the eFiling System and file the following:
- (a) the revised document; and
  - (b) a blacklined version of the revised document that tracks each of the differences between the latest version and the original version.

### **23 Service of documents**

- 23.1** Unless otherwise directed, the date of service of a document is the day on which the document becomes publicly available on the Commission's eFiling System.

## **Part 4 Procedural matters**

### **24 Information requests**

- 24.1** A party may make an information request to another party in accordance with a direction of the Commission, to
- (a) clarify any documentary evidence filed by the other party;
  - (b) simplify the issues;
  - (c) permit a full and satisfactory understanding of the matters to be considered; or
  - (d) expedite the proceeding.
- 24.2** An information request 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 is relevant to the proceeding;

- (d) present the number of each question using the following format: [abbreviation for the party from whom a response is sought]- [abbreviation for the party requesting]-[four-digit year, three-letter abbreviation for the month and day of the information request deadline]- [number of the question] (e.g., where an party is asking a question of the applicant, Applicant - party 2015SEP19-008); and
- (e) set out the date on which the information request is filed in the top left corner of each page.

**24.3** Unless otherwise directed, this section does not apply to a proceeding commenced by the Market Surveillance Administrator under subsection 51(1)(a) of the *Alberta Utilities Commission Act* or an enforcement proceeding commenced by the Commission.

## **25 Response to information request**

**25.1** Subject to subsection 26.1, a party who receives an information request shall prepare a response that

- (a) provides a full and adequate response to each question; and
- (b) identifies the individual or individuals responsible for preparing the response.

**25.2** A response must

- (a) be in writing;
- (b) use the bookmark functionality of PDF or Word formatted documents to bookmark each response;
- (c) start each response to a new question on a new page (responses to subparts of a question can continue on the same page);
- (d) repeat the question prior to its response;
- (e) present the date on which the response is filed in the top left corner of each page; and
- (f) present the full number of the original information request, following the format described in subsection 24.2, in the top right corner of each page.

## **26 Partial or no response**

**26.1** If a party who receives an information request is not able or not willing to prepare a response, the party shall do one of the following:

- (a) if the party contends that the information request is not relevant, file a response in writing that sets out the specific reasons for 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 a response in writing that
  - (i) sets out the specific reasons for that contention, and
  - (ii) contains such other information that the party considers would be of assistance to the party making the information request; or
- (c) if the party contends that the information requested is confidential, file 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.

**26.2** If a party is not satisfied with a response under subsection 26.1, the party may bring a motion under Section 27 requesting that the matter be settled by the Commission.

## **27 Pre-hearing motions**

**27.1** If a matter arises in a proceeding, other than during an oral hearing, that requires a decision or order of the Commission prior to the conclusion of the proceeding, a party may bring the matter before the Commission by filing a motion.

**27.2** Unless otherwise directed, a motion brought under subsection 27.1 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 any documents that may support the motion.

**27.3** Unless otherwise directed, a party to whom a motion is directed may file a response to the motion.

**27.4** A response to a motion 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.

**27.5** Unless otherwise directed, if the party who brought the motion wishes to reply to a response to a motion, the party shall file a reply.

**27.6** A reply 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.

**27.7** The Commission may hold an oral hearing to consider a motion brought under this section.

## **28 Confidential filings**

**28.1** In this section, “requesting party” means a party that makes a request to the Commission under this section to keep confidential any information in a document.

**28.2** When a requesting party wishes to keep confidential any information in a document it may, before filing the document, file on the public record a request for confidentiality with the Commission.

**28.3** The onus is on the requesting party to demonstrate to the satisfaction of the Commission that confidential treatment is warranted because the requirements of subsection 28.9 have been met.

**28.4** The request for confidentiality must

- (a) be in writing;
- (b) briefly describe the reasons for the request, including the specific harm that would result if the document were placed on the public record; and
- (c) include either
  - (i) a non-confidential, redacted version of the document from which the information that is the subject of the confidentiality request has been deleted or stricken, or
  - (ii) where the request for confidentiality relates to the entire document, a non-confidential description or summary of that document.

**28.5** A copy of the written request, together with the non-confidential version or non-confidential description of the document provided in accordance with subsection 28.4(c), must be filed on the public record of the subject proceeding.

- 28.6** At the time a request for confidential treatment of information is filed, the requesting party must provide the AUC with one confidential, un-redacted copy of the document that includes the information for which confidentiality is requested.
- 28.7** Unless otherwise directed, an un-redacted document filed in accordance with subsection 28.6 must
- (a) be filed using a data storage device such as a USB stick, a flash drive or other media device couriered to the attention of the Commission’s senior records officer;
  - (b) be marked “confidential” and all portions of the document for which confidentiality is claimed should be clearly identified; and
  - (c) not be protected or encrypted in a manner that may limit or prevent access to the document.
- 28.8** An un-redacted document filed in accordance with subsection 28.6 will be reviewed by Commission panel members and Commission staff for the purposes of the Commission issuing a ruling on the request.
- 28.9** The Commission may grant a request for confidential treatment of information on any terms it considers reasonable or necessary if the Commission determines that granting the request:
- (a) is necessary to prevent a serious risk to an important public interest, including a commercial interest, because reasonable, alternative measures will not prevent the risk; and
  - (b) the benefits of granting the request outweigh its harmful effects, including the effects on the public interest in open and accessible proceedings.
- 28.10** If the Commission grants a request for confidentiality pursuant to subsection 28.9, it may establish or adopt any process or procedure the Commission considers reasonable or necessary in the public interest for considering the confidential information, including:
- (a) receiving and considering the confidential information in confidence to the exclusion of any party or all other parties to the proceeding on terms the Commission considers to be in the public interest; and
  - (b) issuing a decision in which the confidential information is redacted and providing an un-redacted copy of the decision only to the owner of the confidential information and any person who has been permitted access to the confidential information pursuant to subsection 28.12.

- 28.11** Following the issuance of the Commission’s ruling on the confidentiality request the Commission shall
- (a) delete the un-redacted document filed in accordance with subsection 28.6; or
  - (b) if the un-redacted document was filed on a data storage device such as a USB stick, a flash drive or other electronic media device, return the device to the requesting party.
- 28.12** Unless otherwise directed by the Commission, the following shall apply:
- (a) a party or a representative of a party may only receive a copy of the information granted confidential treatment if the party or representative first executes and files a confidentiality undertaking (Form RP5) and provides a copy of its protocol for the treatment of confidential documents it receives; and
  - (b) the party in possession of the information granted confidential treatment shall provide a secured electronic copy of the confidential information to the Commission in the manner directed by the Commission in its order and to any party or representative who has filed an executed undertaking and protocol as provided for in (a) above and who has not been denied access to the information by the Commission, within five business days of that party or representative filing the executed undertaking.
- 28.13** If the Commission denies a request for confidential treatment, it may issue a direction to place any document, or portion thereof, that was filed in confidence with the Commission on the public record.
- 28.14** The requesting party may, within five business days of a direction of the Commission under subsection 28.13, file a written request on the public record that the documents filed in accordance with subsection 28.6 be withdrawn from the record, unless the document is being filed pursuant to an information request or other direction of the Commission.
- 28.15** Upon receipt of a timely request under subsection 28.14, the Commission shall remove any redacted copy or summary of the document from the public record filed in accordance with subsection 28.5 and any document so withdrawn will not form part of the record of the proceeding and will not be considered by the Commission in rendering any subsequent decision in that proceeding.
- 28.16** If the requesting party does not make a timely withdrawal request under subsection 28.14, a copy of the un-redacted confidential information must be filed on the public record by the requesting party, in accordance with the Commission’s ruling, within five business days of the Commission’s direction under subsection 28.13.

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

## **29 Question of constitutional law**

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

## **30 Adjournments**

**30.1** The Commission may, on its own initiative or on motion by a party, adjourn a hearing.

## **31 Late filing**

**31.1** A person or party who wishes to file a document, including a statement of intent to participate, after the time limit set out for filing has elapsed, may bring a motion seeking the Commission's permission to file the document or statement of intention to participate.

**31.2** The Commission may

- (a) grant permission for the late filing of the document or statement of intent to participate on any terms it considers reasonable; or
- (b) disregard the document or statement of intent to participate.

## **Part 5**

### **Pre-hearing process meetings and negotiated settlements**

## **32 Process meetings and negotiated settlements**

**32.1** The Commission may, on its own initiative or at the request of a party, direct that a process meeting be held 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 process, procedures and schedule to be adopted with respect to the proceeding;
- (c) to set the date, time and place for an oral hearing and to fix the time to be allotted to each party to present evidence and argument; and
- (d) to decide any other matter that may aid in the simplification or the fair and expeditious disposition of the proceeding.

### 33 Technical meeting

- 33.1 The Commission may, on its own initiative or at the request of a party, direct the parties to participate in a technical meeting to review and clarify any document or issue relevant to a proceeding.

### 34 Negotiated settlements

- 34.1 Where the parties engage in a negotiated settlement process as set out in AUC Rule 018: *Rules on Negotiated Settlements*, the provisions of that rule govern the negotiated settlement process.

## Part 6 Hearings

### 35 Written and oral hearings

- 35.1 The Commission may conduct written hearings and oral hearings.
- 35.2 When the Commission holds a written hearing, it may
- (a) dispose of the proceeding on the basis of the documents filed by the parties;
  - (b) require additional information and material from the parties; or
  - (c) decide at any time during the written hearing, to hold an oral hearing.
- 35.3 When the Commission holds an oral hearing, participants may attend before the Commission in person or, if so directed by the Commission, by telephone, video link, or other electronic means.

### 36 On-site visits

- 36.1 The Commission may, with or without the parties, conduct an on-site visit of lands or facilities to determine any matter relevant to a proceeding.

### 37 Notice to produce or attend

- 37.1 The Commission may, on its own initiative or at the request of a party, issue a notice requiring a person to
- (a) produce the documents and material set out in the notice; or
  - (b) attend an oral hearing as a witness.
- 37.2 The provisions of the *Alberta Rules of Court* relating to the payment of conduct money and witness fees apply to oral hearings but the Commission, may increase the amount payable to an expert witness or, in special circumstances, to a witness who attends an oral hearing as a result of a notice to attend.

### **38 Motions made in a an oral hearing**

**38.1** If a matter arises in an oral hearing that requires a decision or order of the Commission prior to the conclusion of the proceeding, a party may bring the matter before the Commission by making a motion.

**38.2** A motion brought under subsection 38.1

- (a) may be made orally or in writing; and
- (b) must be disposed of in accordance with such procedures as the Commission may order.

### **39 Aids to question witnesses**

**39.1** Unless otherwise directed, a party who intends to use a document as an aid to question a witness that has not been filed in a proceeding must provide a copy of that aid to question a witness to the witness, or the witness's representative, no less than 24 hours before the witness is to be questioned on the aid to question a witness.

**39.2** If a document to be used as an aid to question a witness has five or more pages, the party providing the document must highlight all passages in the document that the party intends to question the witness on.

### **40 Oath or affirmation**

**40.1** Unless otherwise directed, a witness at an oral hearing must be examined orally on oath or affirmation.

### **41 Witness panels**

**41.1** Two or more witnesses may give evidence at an oral hearing by sitting as a panel.

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

**41.3** If a question is not addressed to a specific member of a witness panel, the members of the witness panel may confer among themselves prior to answering the question.

**41.4** Where a question is directed to a specific member of a witness panel and that member is not able to answer the question because of a lack of knowledge or qualifications, the Commission may permit the members of the witness panel to confer among themselves and permit another member of the panel to answer the question.

## **42 Presenting evidence**

- 42.1** Unless otherwise directed, no documentary evidence may be presented at an oral hearing unless the evidence was filed in accordance with Section 17.
- 42.2** A witness of a party presenting evidence at an oral hearing shall
- (a) confirm 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 questioning.
- 42.3** A witness may be questioned by or on behalf of a party, a member of the Commission staff or the Commission.
- 42.4** During a recess of an oral hearing, a witness who is being questioned may consult with the witness's counsel if it is necessary to respond to undertakings made before the Commission.

## **43 Concurrent evidence**

- 43.1** The Commission may require expert witnesses from different parties to sit as a witness panel and give their evidence together.

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

- 44.1** Subject to subsections 44.2 and 44.3, all oral hearings are open to the public.
- 44.2** If the Commission considers it necessary to prevent the disclosure of personal, financial or commercial information or other information because, in the circumstances, the need to protect the confidentiality of the information outweighs the desirability of an open hearing, the Commission shall conduct all or part of the oral hearing in private.
- 44.3** If all or any part of an oral hearing is to be held in private, a party may only attend that portion of the hearing in accordance with the directions of the Commission.

## **45 Filings by Commission staff**

- 45.1** If, in the Commission's opinion, it is necessary for Commission staff or an expert hired by the Commission to participate in a hearing, the Commission staff or the hired expert, as the case may be, may do one or more of the following:

- (a) submit a filing;
- (b) present evidence;
- (c) question witnesses;
- (d) submit argument;
- (e) be questioned by or on behalf of a party, the Commission's staff or the Commission.

#### **46 Participation of the Crown**

- 46.1** The Crown may participate in a proceeding in accordance with these rules.
- 46.2** Notwithstanding Section 46.1, the Crown may file a written statement in evidence in a proceeding and need not present a witness.
- 46.3** Unless a statement filed by the Crown is presented by a witness, the statement is not subject to questioning.

#### **47 Argument**

- 47.1** Argument must be in the form directed by the Commission.
- 47.2** No argument may be received by the Commission unless it is based on the evidence before the Commission.

#### **48 Correction of errors**

- 48.1** The Commission may, without notice, correct typographical, spelling and calculation errors and other similar types of errors made in any of its orders, decisions or directions.