

Rule 001

Rules of Practice

This rule as amended was approved by the Alberta Utilities Commission on November 1, 2016, and is effective on November 12, 2016.

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1 Interpretation of rules

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 Definitions

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 or complaint 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 records, reports, films, photographs, charts, maps, graphs, plans, surveys, books of account, emails, transcripts and video and audio recordings;
- (g) “eFiling System” is the Commission’s regulatory electronic filing system;
- (h) “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;
- (i) “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*;
- (j) “file” means file with the Commission;
- (k) “hearing” means a hearing before the Commission;
- (l) “information request” means a request for information described in Section 29;
- (m) “intervener” means a person, other than an applicant, who files a submission with the Commission in respect of a hearing or other proceeding;
- (n) “notice of application” means a notice of application issued by the Commission under Section 22;
- (o) “notice of hearing” means a notice of hearing issued by the Commission under Section 23;

- (p) “oral hearing” means a hearing at which the participants attend in person before the Commission;
- (q) “party” means
 - (i) an applicant,
 - (ii) an intervener,
 - (iii) a market participant or the Market Surveillance Administrator who 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 act, and
 - (v) for the purposes of these rules, any other person whom the Commission determines to be a party to a proceeding;
- (r) “proceeding” means a matter brought before the Commission
 - (i) by application,
 - (ii) by notice by the Market Surveillance Administrator,
 - (iii) by complaint,
 - (iv) by an objection to an ISO rule in accordance with Section 20.4 of the *Electric Utilities Act*, or
 - (v) by the Commission on its own initiative;
- (s) “publication” means a rule, bulletin or other document issued by the Commission;
- (t) “public record” means all documents, other evidence and submissions filed in connection with a hearing or proceeding whether filed prior to, or during, the hearing or proceeding, in the Commission’s eFiling System or filed manually;
- (u) “representative” means the agent of or solicitor of a party;
- (v) “supported format” is a document format type that is compatible with the Commission’s eFiling System and is listed in Appendix A;
- (w) “unsupported format” is a document format type that is not listed in Appendix A;
- (x) “written hearing” means a hearing held by means of an exchange of documents.

3 Application of rules

These rules apply to all hearings or other proceedings of the Commission, other than appeals under Part 7 of the act.

Part 1 General matters

4 Directions

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.

5 On-site visits

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.

6 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.

6.2 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.

6.3 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.

7 Variation of rules

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.

8 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.

8.2 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.

8.3 No hearing or other proceeding is invalid by reason of a defect or other irregularity in form.

9 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.

9.2 A motion brought under Section 9.1 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.

9.3 A party bringing a motion under Section 9.1 shall serve a copy of it on the other parties.

9.4 A party who wishes to respond to a motion brought under Section 9.1 shall file and serve, as directed by the Commission, a response.

9.5 A response under Section 9.4 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.

- 9.6** A party who wishes to reply to a response to a motion under Section 9.4 shall file and serve, as directed by the Commission, a reply.
- 9.7** A reply under Section 9.6 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.
- 9.8** If the Commission decides to hear a motion brought under Section 9.1, the Commission shall give at least two days' notice to each party stating the time and place of the hearing.
- 9.9** If a matter arises in a hearing that requires a decision or order of the Commission, a party may bring the matter before the Commission by making a motion.
- 9.10** A motion brought under Section 9.9
- (a) may be made orally, and
 - (b) must be disposed of in accordance with such procedures as the Commission may order.

10 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.
- 10.2** The person making a submission under Section 10.1 shall serve a copy of the submission on the proponent of the proposed application.

11 Filing of documents

- 11.1** If a person or party is required to file a document with the Commission, the person shall indicate on the document:
- (a) the proceeding and application numbers, and
 - (b) the date of filing.
- 11.2** Where possible, a document shall be filed by electronic means in a supported format using the eFiling System.
- 11.3** If a person or party cannot file a document by electronic means in a supported format using the eFiling System, the document may be filed by personal delivery, courier service, ordinary mail, fax or by any other means directed by the Commission.
- 11.4** A person or party may file a document in an unsupported format if there is no reasonable means to convert the document to a supported format.
- 11.5** If a person or party must file a document in an unsupported format, the person or party shall
- (a) complete an unsupported document form, a copy of which can be found on the AUC website, and file that form by electronic means, and
 - (b) deliver the document in the unsupported format to the Commission and all other interested parties as directed by the Commission.
- 11.6** 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 of the Commission.
- 11.7** The Commission may require that all or any part of a document filed be verified by affidavit.

12 Service of documents

- 12.1** Subject to Section 12.2, a document required to be served under these rules or by the Commission may be served on a person or party
- (a) by filing the document in the Commission's eFiling System,
 - (b) by personal delivery,
 - (c) by courier service, ordinary mail, fax or electronic means to the address given by the person or party, or
 - (d) by such other method as the Commission directs.

- 12.2** 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.
- 12.3** 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.
- 12.4** The date of service of a document is the day on which the document becomes publically available on the Commission's eFiling System, or for persons who cannot access the Commission's eFiling System, the date upon which the person receives the document by some other means.
- 12.5** Where an oral hearing or electronic hearing is in progress, a party entering a document as an exhibit shall file the document using the eFiling System and, when so directed by the Commission, provide copies of the document to the Commission and to Commission staff and parties attending the hearing.
- 12.6** 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.
- 12.7** Any document required to be served on a party under these rules may be served on the party's representative.

13 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.
- 13.2** 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.
- 13.3** The onus is on the party requesting confidential treatment to demonstrate to the satisfaction of the Commission that confidential treatment is warranted because the requirements of Section 13.7 have been met.
- 13.4** 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.

- 13.5** A copy of the written request, together with the non-confidential version or non-confidential description of the document provided in accordance with Section 13.4(c) above, must be filed on the public record of the subject proceeding.
- 13.6** At the time a request for confidential treatment of information is filed in accordance with Section 13.2, the requesting party must provide the AUC with one confidential, unredacted copy of the document which includes the information for which confidentiality is requested. The unredacted document must, unless otherwise directed by the Commission, be filed by locating it on a USB stick or other media device and couriering it to the attention of the Commission’s senior records officer. The unredacted document will be reviewed by certain Commission panel members and Commission staff for the purposes of the Commission issuing a ruling on the request. The document should be marked “confidential” and all portions of the document for which confidentiality is claimed should be clearly identified. This document shall be deleted by the Commission following the issuance of the Commission’s ruling on the confidentiality request or, in the event the document is received by USB or other electronic media device, the device will be returned to the requesting party.
- 13.7** The Commission may, with or without a hearing, grant a request for confidential treatment of information made under Section 13.2 on any terms it considers reasonable or necessary if the Commission determines that granting the request:
- (a) is necessary in order 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 salutary effects of granting the request outweigh its deleterious effects, including the effects on the public interest in open and accessible proceedings.
- 13.8** If the Commission grants a request for confidentiality pursuant to Section 13.7, 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 unredacted 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 Section 13.9.

- 13.9** Unless otherwise directed by the Commission, the following shall apply:
- (a) a party to a proceeding, or a person acting on behalf of a party to a proceeding, may only receive a copy of the information granted confidential treatment in that proceeding if the party or person first executes and files an undertaking in the form attached hereto as “Appendix B” and provides a copy of its protocol respecting 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 person or party 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 person filing the executed undertaking.
- 13.10** If the Commission denies a request for confidential treatment, it may issue a direction to place on the public record any document, or portion thereof, that was filed in confidence with the Commission. The requesting party may, within five business days of any such direction, request that the documents filed in accordance with Section 13.5 be withdrawn from the record unless the document is being filed pursuant to an information request or other direction of the Commission. If a timely withdrawal request is not made, a copy of the unredacted 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.
- 13.11** A request to withdraw a document that the Commission has directed to be placed on the public record in accordance with Section 13.10 must be made in writing to the Commission and shall be filed on the public record. Upon receipt of a timely request, the Commission shall remove any redacted copy or summary of the document from the public record filed in accordance with Section 13.5. 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.
- 13.12** Nothing in this section limits the operation of any statutory provision that protects the confidentiality of information or documents.

13.A Personal information

- 13.A.1** In this section, the words “personal information” has the meaning given to it in the *Freedom of Information and Protection of Privacy Act*.
- 13.A.2** Notwithstanding Section 13.1, 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.
- 13.A.3** To make a request to keep personal information in a document confidential, the person must file the request and the document that contains the personal information

with the Commission. The request must identify the personal information that person wants kept confidential. All requests to keep personal information confidential under this section must be made to the AUC FOIP coordinator by email at foip@auc.ab.ca or by calling 403-592-4376.

- 13.A.4** 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.
- 13.A.5** 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 an undertaking stating that the party will hold the document in confidence and use it only for the purpose of the proceeding.

14 Technical reports

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.

15 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.
- 15.2** 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 the hearing or other proceeding is disposed of, and 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.
- 15.3** When a party intends to file a revised document with the Commission, the party must complete a revised document description form on the eFiling System and file:
- (a) the revised document, and

- (b) a blackline version of the revised document that tracks each of the differences between the latest version and the original version.

16 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.
- 16.2** 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.
- 16.3** 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.

17 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.
- 17.2** 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.
- 17.3** 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.
- 17.4** If a party is not willing to file documentary evidence when directed to do so by the Commission under Section 17.1, the party shall file a statement setting out the reasons why the party is not willing to do so.

18 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.

- 18.2** If the applicant or the intervener does not file the information, documents or material when directed to do so by the Commission under Section 17.1, 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

19 Commencement of proceedings

19.1 A proceeding may be commenced by a party by filing:

- (a) an application,
- (b) a complaint, or
- (c) an objection to an ISO rule under Section 20.4 of the *Electric Utilities Act*.

19.1.A A proceeding may be commenced by the Market Surveillance Administrator by filing a notice under the act.

19.2 The Commission may commence a proceeding by a notice of hearing or as determined by the Commission.

20 Form of application

20.1 An application must be in writing and contain the information required by the applicable Commission rules respecting the application.

20.2 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 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.
- 20.3** 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.
- 20.4** If an application is not complete, the Commission may close and return the application with an explanation of the deficiencies in the application.

21 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.
- 21.2** The Commission may, with or without a hearing, grant an application to withdraw an application on any terms that it considers appropriate.
- 21.3** 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.
- 21.4** 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.

21.A Notice

- 21.A.1** The Commission is required and authorized to collect, directly, or indirectly through a party, sufficient information as described in AUC Rule 007 and AUC Rule 020, about persons that may be directly and adversely affected by its decision on an application to provide notice to those persons in accordance with Section 9 of the *Alberta Utilities Commission Act*.

22 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.
- 22.2** A notice of application will
- (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) contain any other information that the Commission considers necessary.

22.3 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.

23 Notice of hearing

23.1 If the Commission decides to set an application down for a hearing, the Commission shall issue a notice.

23.2 A notice of hearing will

- (a) be in writing,
 - (b) briefly describe the subject matter of the hearing,
 - (c) in the case of an oral or electronic hearing, indicate the date, time and place of the hearing, which must not be less than 10 days after the date of the notice,
- and
- (d) contain any other information that the Commission considers necessary.

24 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.

24.2 Unless otherwise directed by the Commission, a submission must be in writing and include the following information:

- (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 a group or unincorporated organization, the nature of the intervener's membership, and
 - (e) any other information that the Commission considers necessary.

24.3 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.

25 Question of constitutional law

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.

26 Applicant to provide documents and material

After an intervener files a submission under Section 24, the applicant shall, upon request of the intervener, 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.

27 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.

27.2 The Commission may grant a request under Section 27.1 on any terms that the Commission considers appropriate.

28 Adjournments

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

29 Information request

29.1 A party may request another party, within the time limit set by the Commission, 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.

29.2 An information request under Section 29.1 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) present the number of the 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 intervener is asking a question of the applicant, Applicant-Intervener-2015SEP19-008),
- (e) be filed and served as directed by the Commission, and
- (f) set out the date on which the information request is filed.

30 Response to information request

30.1 A party who is served with an information request under Section 29 shall prepare a response that

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

30.2 A response under Section 30.1 must

- (a) be in writing,
- (b) be filed and served as directed by the Commission,
- (c) for PDF form documents or Word documents, utilize the bookmark functionality of those formats to bookmark each response,
- (d) start each response to a new question on a new page (while responses to subparts of a question can continue on the same page),
- (e) repeat the question prior to its response,
- (f) present the date on which the response is filed in the top left corner of the page, and
- (g) present the full number of the original information request, following the format described in Section 29.2, in the top right corner of the page.

31 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.
- 31.2** If a party is not satisfied with a response under Section 31.1, the party may bring a motion under Section 9 requesting that the matter be settled by the Commission.

32 Pre-hearing meeting

- 32.1** 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.

33 Technical meeting

- 33.1** 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.

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*, as amended from time to time, published by the Commission, the provisions of that rule govern the negotiated settlement process.

35 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.
- 35.2** A settlement meeting may not be transcribed or form part of the record of a hearing or other proceeding.
- 35.3** The Commission may appoint a person to chair or facilitate a settlement meeting.
- 35.4** All persons attending a settlement meeting shall treat admissions, concessions, offers to settle and related discussions as confidential and without prejudice.
- 35.5** 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.

36 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.
- 36.2** 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.

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

37 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.

37.2 If the Commission rejects a settlement proposal under Section 37.1(c), the Commission may direct the parties to make reasonable efforts to revise the settlement proposal.

Part 3 Hearings

38 No electronic hearing

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.

39 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.

39.2 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.

39.3 Despite Section 39.2, 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.

40 Oath or affirmation

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

41 Witness panels

- 41.1** The Commission may permit evidence to be given by two or more witnesses 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** Unless the Commission otherwise directs, members of a witness panel may confer among themselves.
- 41.4** 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.

42 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.
- 42.2** 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.
- 42.3** 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.

- 42.4** 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.
- 42.5** No argument may be received by the Commission unless it is based on the evidence before the Commission.

43 Hearings in absence of the public

- 43.1** Subject to sections 43.2 and 43.3, all oral hearings and electronic hearings are open to the public.
- 43.2** 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.
- 43.3** 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.

44 Participation of the Crown

- 44.1** The Crown may intervene in a hearing or other proceeding in accordance with these rules.
- 44.2** Notwithstanding Section 44.1, 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.
- 44.3** Unless a statement filed by the Crown is presented by witness, the statement is not subject to cross-examination.

45 Filings by Commission staff

- 45.1** 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) submit a filing;
 - (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.

46 Arguments

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

47 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.

47.2 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.

48 Correction of errors

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

Appendix A – Supported formats

The following is the list of supported formats:

MS Office (.doc, .docx, .xls, .xlsx, .ppt, .pptx, .vsd, .vsdx and .msg)
Adobe .pdf (in optical character recognition (OCR) format)
Image formats (.jpg, .jpeg, .png and .gif)

Appendix B – Confidentiality undertaking and statutory declaration

Confidentiality Undertaking of Proceeding [insert proceeding number] for a Recipient Under Section 13 of Rule 001: Rules of Practice

[insert name of applicant]
[insert subject matter / title of application]
Proceeding [insert proceeding number]

To: Alberta Utilities Commission
And to: [insert name of party who obtained confidentiality order]

Whereas [insert name of party who obtained confidentiality order] (grantee) applied to the Commission under Section 13 of Rule 001: *Rules of Practice* for confidential treatment of certain records, reports, documents or information in connection with Proceeding [insert proceeding number] (the proceeding);

And whereas the Commission in its ruling dated [insert date of ruling] (ruling) granted the grantee confidential treatment of certain records, reports, documents or information, or portions thereof, as specified in the ruling (the confidential information);

And whereas [insert name of recipient] (recipient), who is a party to, or is acting on behalf of a party, in Proceeding [insert proceeding number], wishes to be granted access to the confidential information for the purpose of participating in the proceeding;

Now therefore, in consideration of receiving access to the confidential information, the recipient agrees and undertakes as follows:

- 1) I have read the ruling and agree to observe its terms and conditions as they relate to the access, use and protection of the confidential information.
- 2) I will only use the confidential information and all evidence, transcripts, notes, working papers, calculations, analysis or other materials based on or using the confidential information that I receive, review or prepare (related materials) during the course of the proceeding or any appeal, review or rehearing of the Commission's decision in the proceeding for the purpose of participating in Proceeding [insert proceeding number] or any appeal, review or rehearing from the Commission's decision in the proceeding.
- 3) I will maintain all of the confidential information and related materials in confidence. I will not disclose the confidential information or related materials to any person except to the Commission or to a person who is authorized by the Commission to receive access to the confidential information and who has executed and filed with the Commission an

undertaking, unless otherwise required by law, in which case, I will promptly give written notice to the Commission and the grantee that such disclosure has been required.

- 4) I will not copy the confidential information or related materials except in connection with the uses authorized herein.
- 5) I will use all reasonable and necessary efforts to safeguard the confidential information and related materials from any unauthorized disclosure or use.
- 6) I shall save harmless and indemnify the Commission from and against all claims, actions, proceedings, demands, losses, damages, costs, and expenses which may be brought against the Commission or which the Commission may suffer, sustain, pay or incur, resulting from, or arising in connection with, the unauthorized use or disclosure by myself of the confidential information or the related materials.
- 7) Subject to paragraphs 11 and 12, within 30 days of the expiration of any appeal or review period of the Commission's decision in respect of Proceeding [insert proceeding number], unless otherwise directed by the Commission, I will:
 - a) Expunge all electronic copies of the confidential information and related materials from all electronic apparatus and data storage media in my possession and under my direction and control;
 - b) Deliver to the grantee or destroy all paper copies of the confidential information and related materials in my possession or under my direction and control; and
 - c) Provide an executed statutory declaration in the form attached to both the Commission and to the grantee.
- 8) I will promptly report any violation of mine of this undertaking to the Commission and to the grantee and shall take all reasonable steps to retract any unauthorized disclosure and report such activities to the Commission and to the grantee.
- 9) I acknowledge that a breach of the terms of the ruling or this undertaking may, with notice, be the subject of contempt proceedings in the Alberta Court of Queen's Bench.
- 10) I agree that no failure or delay in exercising any right or privilege in respect of a breach of this undertaking or of the ruling, shall operate as a waiver.
- 11) In the event that any Commission decision in respect of the proceeding is the subject of a review application pursuant to Section 10 of the *Alberta Utilities Commission Act* and AUC Rule 016: *Review of Commission Decisions*:
 - a) I will, within 30 days following the release of the Commission's final disposition of any review application;
 - i. Expunge all electronic copies of the confidential information and related

materials from all electronic apparatus and data storage media in my possession and under my direction and control;

- ii. Deliver to the grantee or destroy all paper copies of the confidential information and related materials in my possession or under my direction and control; and
- iii. Provide an executed statutory declaration in the form attached to both the Commission and to the grantee.

12) In the event that any Commission decision in respect of the proceeding is the subject of a permission to appeal application or appeal;

- a) The confidential information and related materials remain confidential and remain subject to the ruling of the Commission except to the extent that a court of competent jurisdiction grants any contrary order with respect to the confidential information or related materials;
- b) I will, unless otherwise directed by a court of competent jurisdiction, within 30 days following the release of a final decision disposing of the appeal (a decision dismissing the application for permission to appeal or a final decision on appeal):
 - i. Expunge all electronic copies of the confidential information and related materials from all electronic apparatus and data storage media in my possession and under my direction and control;
 - ii. Deliver to the grantee or destroy all paper copies of the confidential information and related materials in my possession or under my direction and control; and
 - iii. Provide an executed statutory declaration in the form attached to both the Commission and to the grantee.

Made at _____, _____, this _____ day of _____, 20_____.

Recipient signature

Witness name

Witness signature

**Statutory declaration of recipient
(Destruction of confidential information)**

**[insert name of applicant]
[insert subject matter / title of application]
Proceeding [insert proceeding number]**

**To: Alberta Utilities Commission
And to: [insert name of party who obtained confidentiality order]**

I, [insert name of recipient] of _____, do solemnly declare as follows:

- 1) I had in my possession and under my direction and control records, reports, documents or information, or portions thereof, that were granted confidential treatment (confidential information) by the Commission in its ruling dated [insert date of ruling] (ruling) in Proceeding [insert proceeding number] pursuant to Section 13 of Rule 001: *Rules of Practice*, and had in my possession and under my direction and control evidence, transcripts, notes, working papers, calculations, analysis or other materials based on or using the confidential information that I received, reviewed or prepared (related materials).
- 2) I executed an undertaking in accordance with the ruling and Section 13 of Rule 001: *Rules of Practice* (undertaking) to have access to the confidential information and related materials.
- 3) I have made no use of the confidential information or related materials except as permitted pursuant to the ruling and undertaking.
- 4) I have not disclosed the confidential information or related materials in any manner except as permitted by the ruling and undertaking.
- 5) I have expunged all electronic copies of the confidential information and related materials from all electronic apparatus and data storage media in my possession or under my direction and control.
- 6) I have delivered to the grantee or have destroyed, all paper copies of the confidential information and related materials in my possession or under my direction and control.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Recipient signature

Declared before me at the _____ of _____

in the province of _____
this ____ day of _____, 20____.

A commissioner for oaths in and for Alberta or
a notary public (with seal affixed)