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JP Mousseau
403-592-4452
jp.mousseau@auc.ab.ca

Summary of proposed amendments to AUC Rule 001

1. This summary has been prepared in response to a number of requests from stakeholders for a black line version of the amended rule. Because the proposed amendments to the rule are significant, a black line version is unavailable. This summary is intended to assist stakeholders in their review of the proposed amendments by providing a broad overview of those amendments; it is not intended to be a substitute for a review of the proposed amendments.

2. The current rule is effectively organized into four parts. The first three provisions address the application and interpretation of the rule and include definitions.

- Part 1, “General matters”, begins at Section 4 and addresses a number of topics, including site visits, time limits, motions, confidentiality, protection of personal information, submissions, filing and service of documents, evidence, etc.
- Part 2, “Commencement of proceedings”, addresses how to commence a proceeding, forms of applications, AUC notices, intervener submissions, questions of constitutional law, adjournments, late filing, information requests, prehearing meetings, negotiated settlements, etc.
- Part 3, “Hearings”, addresses written and oral hearings, witness panels, presenting evidence, participation of AUC staff and the Crown, argument, the correction of errors etc.

3. Rule 001 may be more effectively reorganized into six distinct parts paralleling the development of proceedings before the Commission. The six parts proposed are: 1) general matters, 2) commencing a proceeding, 3) documents, evidence, filing and service, 4) procedural matters, 5) pre-hearing meetings and technical meetings and settlements, and 6) hearings. Each part is described in greater detail below.

Part 1: General matters

4. This part includes general provisions relating to definitions and the application and interpretation of the rules.

5. The definition section is now the first section in the rule. Proposed amendments include:

- Removing the definition of “act”.
- Adding the definition of “enforcement proceeding”.

- Removing the definitions of “oral”, “written” and “electronic” hearings.
- Removing the definitions of “facility” and “publication”.
- Removing the definition of “intervener” and the reference to an intervener in the definition of “party”.
- Removing the definitions of information requests, notice of application and notice of hearing.
- Adding two new categories to the definition of “party” to capture enforcement proceedings commenced by the MSA or the Commission.
- Removing the definition of public record.

6. Section 2 consolidates sections 1, 3, 4, 6 and 7 of the previous version. Section 3 addresses non-compliance with the rules

7. Section 4 is a new provision that addresses the collection and publication of personal information. This section essentially combines sections 13.A and 21.A from the previous version.

Part 2: Commencement of proceedings

8. This part consolidates the rules that address how to file an application and how to participate in a proceeding to consider an application. It also sets out the Commission’s notice requirements and the Commission’s options for deciding an application.

9. Sections 5 and 6 explain how to commence a proceeding and what information must be contained in an application and are streamlined but essentially unchanged from their predecessors. Section 7 is a new section and it specifically sets out how the Commission can serve notices.

10. Section 8 is new and sets out the notice requirements for an enforcement proceeding commenced by the Commission. The notice requirements are very similar to those that the MSA must meet when it commences an enforcement hearing.

11. Section 9 sets out the information that must be contained in a notice of application; the information requirements are unchanged. Section 10 is new and replaces three separate sections in the previous rule that set out the requirements for making submissions to the Commission. Rather than setting out information requirements for a submission, Section 10 requires persons who want to participate in a proceeding to file a statement of intent to participate. This reflects the process on eFiling but still provides an option for manual filing.

12. Section 11 combines two previous provisions and sets out the Commission’s decision options upon receipt of a statement of intent to participate. This provision incorporates the standing test set out in Section 9 of the *Alberta Utilities Commission Act*. Section 12 sets out the rules for the withdrawal of an application or a statement of intent to participate and is essentially unchanged from the previous rule.

13. Section 13 is a new section which explains the circumstances when the Commission may issue a decision without notice or further notice where there are no objections or no person with standing.

14. Section 14 sets out the information requirements for a notice of hearing and Section 15 creates an obligation on the applicant to provide paper copies of the application to persons without access to the eFiling System.

Part 3: Documents, evidence, filing and service

15. Section 16, makes it clear that all documents filed in a proceeding will be placed on the public record. This was previously the first subsection of the confidentiality provision.

16. Section 17 addresses the filing of documents and Section 18 addresses evidence. These sections are essentially unchanged from previous versions.

17. Section 19 is new and requires more information from expert witnesses on his or her qualifications and requires disclosure of the instructions provided to the expert. It also requires the expert to acknowledge his or her duty to provide evidence that is fair, objective and non-partisan. Section 19.3 allows the Commission to direct conflicting experts to confer with each other, identify areas of agreement and disagreement and prepare joint submissions.

18. Sections 20 and 21 relate to affidavits and additional information requested by the Commission. These sections are essentially unchanged from the previous version. Section 22 relates to revisions to documents and amendments are proposed to reflect a change in practice and requires parties to submit a revised document form rather than a letter outlining the changes to the document.

19. Section 23 addresses the service of documents and is essentially unchanged.

Part 4: Procedural matters

20. This part consolidates the procedural matters that the Commission may have to address following the commencement of a proceeding.

21. Sections 24-26 address information requests and are essentially unchanged from the previous version. Section 24.3, is new and provides that information requests will be unavailable in enforcement proceedings commenced by the MSA or the Commission unless the Commission otherwise directs.

22. Section 27 relates to pre-hearing motions. This section is primarily unchanged from the previous version with two exceptions. First, the requirement for an affidavit in support of a motion has been removed because this requirement is rarely followed. Second, the provisions that address motions made during the course of an oral hearing have been moved to the hearing section.

23. Section 28 addresses confidential filings, it has been reformatted but its content is essentially unchanged from the previous version.

24. Section 29 and 30 are essentially unchanged from the previous version.
25. Section 31 addresses late filings. Previously this section stated that a party needed leave from the Commission to allow a late filing. The amended section now requires that such requests be done by motion.

Part 5: Pre-hearing meetings

26. The sections in this part relating to pre-hearing meetings, technical meetings and negotiated settlements are essentially unchanged. The sections on settlement meetings (35-37 in the old rule) have been eliminated.

Part 5: Hearings

27. Section 35 addresses oral and written hearings, Section 36 addresses on-site visits and Section 37 addresses notices to attend. These sections are essentially unchanged from the previous version. The section on electronic hearings has been eliminated. Section 38 addresses motions brought in an oral hearing and is essentially unchanged from the previous version other than it is now a standalone section.
28. Section 39 is new and requires parties to provide aids to question to witnesses at least 24 hours before the witness is to be questioned. It also requires that longer aids to questioning be highlighted to assist the witness.
29. Section 40 addresses oaths and affirmations, Section 41 addresses witness panels and Section 42 addresses presenting evidence. These sections are essentially unchanged from the previous version with one exception. The rules on presenting evidence have been slightly amended to address circumstances where a question is directed to a specific witness. Subsection 41.4 now requires permission from the Commission before witness panel members can confer when a question is directed to a specific panel member.
30. Section 43 is new and allows for concurrent expert evidence.
31. The remaining provisions relate to hearings in the absence of the public, participation of Commission staff and the Crown, argument and the correction of errors. These sections are essentially unchanged from the previous version.