

These rules as amended were approved by the Alberta Utilities Commission on April 27, 2021, and apply to proceedings registered on or after May 17, 2021.

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## Part 1: General matters

### 1 Definitions

#### 1.1 In these rules:

- (a) “applicant” means a person who files an application with the Commission;
- (b) “application” means an application, letter of enquiry, complaint or dispute of a notice of specified penalty filed with the Commission requesting an approval, licence, order or other relief under the *Alberta Utilities Commission Act* or any other enactment;
- (c) “business day” means any day on which AUC offices are open;
- (d) “Commission” means the Alberta Utilities Commission;
- (e) “Crown” means Her Majesty the Queen in the right of Alberta or Her Majesty the Queen in the right of Canada;
- (f) “document” includes a record, report, spreadsheet, film, photograph, chart, map, graph, plan, survey, book of accounts, email, presentation, transcript, video recording, audio recording and collection of data;
- (g) “eFiling System” means the Commission’s regulatory electronic filing system;
- (h) “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, order or direction of the Commission or any Commission rule;
- (i) “file” means file with the Commission using the Commission’s eFiling System, unless otherwise directed by the Commission;
- (j) “independent witness” means a witness with specialized knowledge, training, skills, experience or expertise who is engaged by a party for the purpose of giving opinion evidence in a proceeding on an issue or issues directly related to the witness’s specialized knowledge, training, skills, experience or expertise;
- (k) “ISO” means the Independent System Operator;
- (l) “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,
  - (iii) an interested person, a market participant, the Market Surveillance Administrator, or any of them, that participates in an ISO rule or reliability standards proceeding before the Commission,
  - (iv) the Market Surveillance Administrator for purposes of sections 51 and 52 of the *Alberta Utilities Commission 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,
  - (vii) a person who files a dispute of a notice of specified penalty, and
  - (viii) any other person whom the Commission determines to be a party;
- (m) "person" includes an individual, unincorporated entity, partnership, association, corporation, trustee, executor, administrator or legal representative;
- (n) "proceeding" includes a matter before the Commission commenced by
- (i) an application,
  - (ii) notice by the Market Surveillance Administrator,
  - (iii) the Commission on its own initiative, or on the direction of the government of Alberta;
- (o) "rates proceeding" means a proceeding convened to consider the rates, tolls, tariffs, charges, prices or terms and conditions of service of an owner involved in the provision of electric or gas distribution services, electric or gas transmission services, regulated electric or gas retail services, and investor-owned water services, or any other proceeding determined by the Commission to be a rates proceeding, but does not include an enforcement proceeding;
- (p) "representative" means the agent of or lawyer engaged by a person or party;

- (q) “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),
  - (iii) image formats (.jpg, .jpeg, .png and .gif), and
  - (iv) Keyhole Markup Language (.kml/.kmz);
- (r) “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*, except as otherwise directed by the Commission or specified in another Commission rule.
- 2.2 These rules must be liberally construed to ensure the fair, expeditious and efficient determination on its merits of any issue the Commission considers necessary in carrying out its statutory responsibilities.
- 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, or the fair, expeditious and efficient resolution of any issue, 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 or a direction**

- 3.1 If a person or party fails to comply with any rule or a direction of the Commission, the Commission may
  - (a) make any order or determination 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 a direction of the Commission.
- 3.2 The Commission may take into account a party's failure to comply with these rules or a direction of the Commission when making a decision on a costs application made by the party under Rule 009: *Rules on Local Intervener Costs* or Rule 022: *Rules on Costs in Utility Rate Proceedings*.

## **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 18, the Commission will consider a request for confidential treatment of personal information contained within a document filed with the Commission, including information in a statement of intent to participate. Requests should be made to the Commission's FOIP coordinator by email at [foip@auc.ab.ca](mailto:foip@auc.ab.ca) or by phone at 310-4282 (in Alberta) or 1-833-511-4282 (outside Alberta).
- 4.4 A person who makes a request under Section 4.3 must provide the Commission's FOIP coordinator with the document that contains the personal information and specify the personal information that the person wants to be kept confidential.
- 4.5 A party may only receive a copy of any personal information granted confidential treatment by the Commission under Section 4.3 to the extent permitted by law, 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: Commencing or participating in a proceeding**

### **5 Commencement of proceedings**

- 5.1 A proceeding may be commenced by a person by filing an application.
- 5.2 A proceeding may be commenced by the Market Surveillance Administrator by filing a notice under the *Alberta Utilities Commission Act*.

- 5.3 The Commission may commence a proceeding, including an enforcement proceeding, on its own initiative by a notice, on the direction of the government of Alberta, 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.
- 6.2 If rules regarding a particular application type 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 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;
  - (b) direct the applicant to provide any additional information the Commission requires in order to accept the application; or
  - (c) in the case where the Commission identifies a material deficiency, dismiss the application with an explanation of the deficiency in the application and close the proceeding.

## **7 Service of Commission notices**

7.1 The Commission may serve any notice for a proceeding by one or more of the following methods:

- (a) filing the notice;
- (b) posting the notice on the Commission's website;
- (c) personal delivery;
- (d) courier service, mail, fax or electronic means;
- (e) public advertisement in a daily or weekly newspaper in circulation in the community affected by the proceeding;
- (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) include any other information that the Commission may direct.

## **9 Notice of application**

9.1 Unless otherwise directed, 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;
  - (b) direct the applicant or the person to make further submissions, either orally or in writing; or
  - (c) establish any other process steps the Commission considers necessary.
- 11.2 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 notice of his or her intent to withdraw the statement of intent to participate and the withdrawal of the statement to participate will be effective upon filing of the notice.

### **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 if
- (a) no person files a statement of intent to participate; or
  - (b) 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 and directions on procedure**

- 14.1 If the Commission decides to hold a hearing, the Commission shall serve a notice of hearing.
- 14.2 Unless otherwise directed, a notice of hearing must
- (a) be in writing;
  - (b) briefly describe the subject matter of the hearing; and
  - (c) contain any other information that the Commission considers necessary.
- 14.3 When the Commission serves a notice of hearing for a rates proceeding, the Commission shall also issue directions on procedure, which may include a process for establishing a preliminary list of issues for the hearing.
- 14.4 Unless otherwise directed, parties to a rates proceeding must file any comments on the directions on procedure, including the preliminary list of issues, within the time period directed by the Commission. The Commission will consider any comments received and issue finalized directions on procedure.
- 14.5 The Commission may issue whatever directions on procedure it considers necessary, including restricting the scope of a hearing and imposing limits on the number of information requests each party may ask.
- 14.6 A person or party wishing to modify any aspect of the finalized directions on procedure, including a finalized list of issues, has the onus to demonstrate that the circumstances of the proceeding require it.

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

15.1 Unless otherwise directed, a person or party 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 person or party on the eFiling System.

## **16 Extensions, abridgements and adjournments**

16.1 A person or party requesting an extension or abridgment of a time limit established by the Commission, or an adjournment of a proceeding, has the onus of demonstrating that the request is necessary in the circumstances and will not interfere with the fair, expeditious and efficient resolution of the proceeding.

## **17 Closures and abeyances**

17.1 The Commission may, at any time during a proceeding,

- (a) place an application into abeyance and suspend the proceeding; or
- (b) in the case where the Commission determines that it cannot continue to process an application, dismiss the application with an explanation of the dismissal and close the proceeding.

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

### **18 Public record**

18.1 Subject to sections 4 and 30, 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.

### **19 Filing of documents**

19.1 If a person or party is required to file a document with the Commission, the person or party shall indicate on the document

- (a) the proceeding number; and
- (b) the date of filing.

19.2 Where possible, a document shall be filed by electronic means in a supported format using the eFiling System.

19.3 If a person or party cannot file a document 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,

the person or party may file the document by personal delivery, courier service, ordinary mail, email, fax or by any other means directed by the Commission.

19.4 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 form (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.

19.5 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 of the Commission.

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

## **20 Evidence**

20.1 All documentary evidence in a proceeding must be directly relevant to the proceeding and must be filed in accordance with the Commission's directions.

20.2 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, the qualifications of the person under whose direction or control the evidence was prepared, and an explanation of how such qualifications are directly relevant to the issues addressed in the evidence.

## **21 Independent witnesses**

21.1 A party may engage one or more independent witnesses to give opinion evidence in a proceeding on issues that are in the independent witness's area of specialized knowledge, training, skills, experience or expertise.

21.2 An independent witness's written evidence shall, at a minimum, include the following:

- (a) the independent witness's name, business name and address, and general area of expertise;
- (b) the independent witness's qualifications, including relevant educational and professional experience in respect of each issue in the proceeding to which the independent witness's evidence relates;
- (c) the instructions provided to the independent witness in relation to the proceeding;
- (d) an acknowledgment that the independent witness has a duty to provide opinion evidence to the Commission that is fair, objective and non-partisan;
- (e) a list of the documents upon which the independent witness's evidence is based, including a description of each document, any factual assumptions made in utilizing the document and the nature of any research conducted; and
- (f) in the case of evidence that is provided in response to another independent witness's evidence, a summary of the points of agreement and disagreement with the other independent witness's evidence.

21.3 The Commission may require independent 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 to prepare joint written statements to be admissible as evidence.

## **22 Affidavits**

- 22.1 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.
- 22.2 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.
- 22.3 If an affidavit refers to an exhibit or attachment, the exhibit or attachment must be attached to the affidavit.

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

- 23.1 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.
- 23.2 If a party does not file the information, documents or material when directed to do so by the Commission under Section 23.1, the Commission may
- (a) adjourn the hearing or other proceeding until the information, documents or material is filed;
  - (b) dismiss the application if the information is sought from the applicant;
  - (c) dismiss the party's statement of intent to participate or other relevant filing if the information is sought from a party who is not the applicant; or
  - (d) make any other order or direction the Commission considers necessary to permit a full and satisfactory understanding of an issue in a proceeding.

## **24 Revision or removal of documents**

- 24.1 Despite any other provision in these rules, the Commission may, on any terms it determines,
- (a) allow the revision or removal of all or any part of a document; or
  - (b) order the revision or removal 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 at issue in the proceeding; or
  - (c) direct the provision of a blacklined version of a revised document that tracks each of the differences between the latest version and the original version.
- 24.2 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 which is relevant to the proceeding that was not available with reasonable diligence prior to filing the document and that has become available before a proceeding is disposed of.

24.3 When a party intends to file a revised document with the Commission, the party must complete a revised document request (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.

## **25 Service of documents**

25.1 Unless otherwise directed, service of a document is effective on the date that the document becomes publicly available on the Commission's eFiling System.

## **Part 4: Procedural matters**

### **26 Information requests**

26.1 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.

26.2 An information request must

- (a) be in writing and filed in .doc or .docx format;
- (b) be directed to a party adverse in interest from the requesting party;
- (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) if there is a finalized list of issues in a rates proceeding, only contain questions that directly relate to an issue identified by the Commission in the directions on procedure established under Section 14.4;
- (e) 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 two-digit day of the information request deadline]-[number of the question] (e.g., where an party is asking a question of the applicant, APPLICANT-PARTY-2021-MAY31-008); and
- (f) include the date on which the information request is filed, in the top left corner of each page.

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

## **27 Response to information request**

27.1 Subject to Section 28.1, a party who receives an information request shall

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

27.2 A response must

- (a) be in writing;
- (b) use the bookmark functionality of .pdf, .doc or .docx 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) include the date on which the response is filed, in the top left corner of each page; and
- (f) include the full number of the original information request, following the format described in Section 26.2(e), in the top right corner of each page.



## **28 Partial or no response**

- 28.1 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.
- 28.2 If the requesting party is not satisfied with a response under Section 28.1, the requesting party must make reasonable efforts to resolve the matter with the responding party prior to bringing a motion under Section 29 requesting that the matter be settled by the Commission.
- 28.3 If a party brings a motion under Section 29 requesting that the Commission settle a matter related to the sufficiency of an information request response, the motion
- (a) must be filed in a timely manner, and no later than five business days from the date on which the information request responses were filed;
  - (b) must describe the steps taken pursuant to Section 28.2 to resolve the matter; and
  - (c) may contain an appendix that clearly identifies the responses or issues that remain the subject of disagreement.

## **29 Pre-hearing motions**

- 29.1 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.

- 29.2 The Commission may establish any process it considers necessary to consider a motion brought under Section 29.1, including a process to hear oral submissions on a motion.
- 29.3 Unless otherwise directed, a motion brought under Section 29.1 must
- (a) be in writing;
  - (b) be no greater than 10 pages in length, double-spaced, exclusive of any appendix described in Section 28.3(c);
  - (c) briefly describe
    - (i) the decision or order sought,
    - (ii) the grounds on which the motion is made,
    - (iii) any relevant prior rulings of the Commission dealing with the issue raised or relief requested in the motion, and
    - (iv) any evidence in support of the motion; and
  - (d) be accompanied with any documents that may support the motion.
- 29.4 A party bringing a motion for relief that is inconsistent with a prior ruling of the Commission on the same legal issue has the onus of demonstrating that the departure from the Commission's prior ruling is justified in the circumstances.
- 29.5 Unless otherwise directed, if the party to whom a written motion is directed wishes to respond to the motion, the party shall file a response to the motion no later than three business days from the date on which the motion is filed.
- 29.6 A response to a written motion must
- (a) be in writing;
  - (b) be no greater than 10 pages in length, double-spaced, exclusive of any appendix described in Section 29.6(f);
  - (c) identify any relevant prior rulings of the Commission dealing with the issue raised or relief requested in the motion;
  - (d) briefly describe any evidence in support of the response;
  - (e) be accompanied with any documents that may support the response; and

- (f) if the response relates to the sufficiency of an information request response, may include an appendix that clearly identifies the responses or issues that remain the subject of disagreement.
- 29.7 Unless otherwise directed, if the party who brought the written motion wishes to reply to any response to the motion, the party shall file a reply no later than three business days from the date on which the response is filed.
- 29.8 A reply must
- (a) be in writing;
  - (b) be no greater than five pages in length, double spaced, exclusive of any appendix described in Section 29.8(e);
  - (c) briefly describe any evidence in support of the reply;
  - (d) be accompanied with any documents that may support the reply; and
  - (e) if the reply relates to the sufficiency of an information request response, may include an appendix that clearly identifies the responses or issues that remain the subject of disagreement.
- 29.9 The Commission shall issue its ruling on a written motion no later than 10 business days from the date on which the time limit for filing a reply has lapsed.
- 29.10 Notwithstanding sections 29.5 through 29.8, the Commission may proceed directly to a ruling on a motion without any process if it determines that the fair, expeditious and efficient resolution of an issue requires it.

### **30 Confidential filings**

- 30.1 In this section, “disclosing party” means a party that files a motion with the Commission under this section to keep confidential any information in a document.
- 30.2 When a disclosing party wishes to keep confidential any information in a document, it may file on the public record of a proceeding a motion for confidentiality with the Commission.
- 30.3 The disclosing party has the onus to demonstrate that the requirements under Section 30.7 have been satisfied.
- 30.4 The motion for confidentiality filed on the public record must
- (a) be in writing;

- (b) briefly describe the reasons for the request, including the specific harm that would result if the confidential information was placed on the public record; and
  - (c) include either:
    - (i) a non-confidential version of the document redacting the confidential information, or
    - (ii) where the motion for confidentiality applies to the entirety of a document, a non-confidential description or summary of that document.
- 30.5 At the time a motion for confidential treatment of information is filed, the disclosing party must file with the Commission a confidential, unredacted copy of the document that includes the information for which confidentiality is requested.
- 30.6 An unredacted document filed in accordance with Section 30.5 will be reviewed by Commission panel members and Commission staff for the purposes of the Commission issuing a confidentiality ruling on the motion.
- 30.7 The Commission may grant a motion for confidential treatment of information on any terms it considers reasonable or necessary if the Commission determines that:
  - (a) granting the request 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.
- 30.8 Unless otherwise directed, if the Commission grants a motion for confidentiality pursuant to Section 30.7, the confidentiality ruling shall extend to:
  - (a) any review, appeal or rehearing of the Commission's decision in the proceeding in which the confidentiality ruling was granted;
  - (b) any compliance application proceeding associated with the proceeding in which the confidentiality ruling was granted; and
  - (c) any review, appeal or rehearing of a decision issued in a proceeding described in Section 30.8(b).

- 30.9 If the Commission grants a motion for confidentiality pursuant to Section 30.7, 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 disclosing party and any person who has been permitted access to the confidential information pursuant to Section 30.11.
- 30.10 Following the issuance of the Commission's ruling on the confidentiality motion, the Commission shall delete the unredacted document filed in accordance with Section 30.5.
- 30.11 Unless otherwise directed by the Commission, if the Commission grants a motion for confidentiality pursuant to Section 30.7, the following shall apply:
- (a) a party, a representative of a party, or a consultant or mediator appointed by the Commission may only receive access to the information granted confidential treatment if the party, representative, consultant or mediator first executes and files a confidentiality undertaking form (Form RP5) and provides a copy of its protocol for the treatment of confidential documents it receives; and
  - (b) subject to Section 30.12, the disclosing party shall:
    - (i) file the confidential information on the confidential portion of the record;
    - (ii) file on the public portion of the record either a non-confidential version of the confidential information filed under (b)(i) above, redacting the confidential information, or a system-generated summary when the information filed under (b)(i) above is confidential in its entirety; and
    - (iii) provide access to any party, representative of a party, or consultant or mediator appointed by the Commission who has filed an executed confidentiality undertaking and protocol as provided for in (a) above and who has not been denied access to the information by the

Commission, no later than five business days from the date on which that party or representative filed the executed undertaking.

- 30.12 If the Commission denies all or a portion of a motion for confidential treatment, the disclosing party may, no later than five business days from the date on which the Commission issued its ruling on the motion, file a written request on the public record that the documents filed in accordance with Section 30.4(c) be withdrawn from the public record, unless the documents were filed pursuant to an information request or a direction of the Commission.
- 30.13 Upon receipt of a request under Section 30.12, the Commission shall remove any redacted copy or summary of the document from the public record filed in accordance with Section 30.4(c), 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.
- 30.14 If the disclosing party does not make a withdrawal request under Section 30.12, a copy of the unredacted information filed under Section 30.5 that was denied confidential treatment must be filed on the public record by the disclosing party no later than five business days from the date on which the Commission issued its ruling on the motion. Nothing in this section limits the operation of any statutory provision that protects the confidentiality of information or documents.

## **31 Question of constitutional law**

- 31.1 A party who intends to raise a question of constitutional law before the Commission in an oral hearing must give written notice of the party's intention to do so at least 14 days before the start of the oral hearing, in accordance with Section 12 of the *Administrative Procedures and Jurisdiction Act* and its regulation.
- 31.2 A party who intends to raise a question of constitutional law before the Commission in a written hearing must give written notice of the party's intention to do so no later than 14 days from the date on which the Commission issues notice of a written hearing for the proceeding, in accordance with Section 12 of the *Administrative Procedures and Jurisdiction Act* and its regulation.

## **32 Late filing**

- 32.1 No person or party may file a document after the time limit set out for filing has elapsed without the Commission's permission to do so.
- 32.2 A request to file a document after the time limit for filing has elapsed may be filed in writing without the requirement of filing a motion under Section 29.

- 32.3 Unless the Commission has granted permission for the late filing, a document filed on the record of a proceeding after an applicable time limit for filing has elapsed will be removed from the record of the proceeding by the Commission without further process and will not be considered by the Commission in rendering any subsequent decision in that proceeding.

## **Part 5: Pre-hearing meetings and settlements**

### **33 Process meetings**

- 33.1 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;
  - (d) to decide any other matter that may aid in the simplification or the fair, expeditious and efficient disposition of the proceeding.

### **34 Technical meetings**

- 34.1 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.

### **35 Settlements**

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

## **Part 6: Hearings and decisions**

### **36 Written and oral hearings**

- 36.1 The Commission may conduct hearings through a written, oral or combined written and oral process.

- 36.2 Unless otherwise directed by the Commission, the development of the evidentiary record in a rates proceeding shall be conducted through a written process.
- 36.3 A party who wants the Commission to establish an oral process for the development of the evidentiary record in a rates proceeding must make this request as early as practicable, and has the onus to satisfy the Commission that the circumstances of the proceeding or the expeditious resolution of an issue require it.
- 36.4 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.
- 36.5 When the Commission holds an oral hearing, participants may attend before the Commission in person, by video link, telephone or other electronic means, as directed by the Commission.
- 36.6 When the Commission holds an oral hearing, the Commission may issue directions on the scope of the oral hearing, and may impose time limits for the questioning of witnesses.
- 36.7 When the Commission holds an oral hearing for a rates proceeding, no party may question a witness unless the party obtains approval from the Commission in advance.
- 36.8 A request to question a witness or witnesses in a rates proceeding must be made as early as practicable and be supported by a description of the witness(es) to be questioned, the time required for questioning, the issues that the questioning will address, an explanation of how the questioning will be of assistance to the Commission, and any other information the Commission directs.
- 36.9 Questioning of witnesses in a rates proceeding shall be restricted to the specific witnesses, issues and time limits approved by the Commission in advance.
- 36.10 The Commission may, on its own initiative or in response to a motion by a party, adjourn a hearing.



## **37 On-site visits**

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

## **38 Notice to produce or attend**

38.1 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.

38.2 Where the Commission has issued a notice to attend an oral hearing, the provisions of the *Alberta Rules of Court* relating to the payment of conduct money and witness fees apply, but the Commission may increase the amount payable to an independent witness or, in special circumstances, to a witness who attends an oral hearing as a result of a notice to attend.

## **39 Motions made in an oral hearing**

39.1 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.

39.2 A motion brought under Section 39.1

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

## **40 Aids to question a witness**

40.1 Unless otherwise directed, a party who intends to use a document that has not been filed in the proceeding as an aid to question a witness at an oral hearing 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.

40.2 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.

40.3 No party shall file an aid to question a witness until the Commission so directs.

#### **41 Oath or affirmation**

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

#### **42 Witness panels**

42.1 Evidence may be given at an oral hearing by two or more witnesses sitting as a panel.

42.2 Unless otherwise directed, questions addressed to a witness panel may be asked of a specific member of the witness panel or to the witness panel in general.

42.3 Subject to Section 42.4, and unless otherwise directed, members of a witness panel may confer among themselves before answering a question put to the witness panel in general or to any member of the witness panel.

42.4 Unless otherwise directed, a question addressed to an independent witness must be answered by the independent witness without conferring with another member of the witness panel.

#### **43 Presenting evidence**

43.1 Unless otherwise directed, no documentary evidence may be presented at an oral hearing unless the evidence was filed in accordance with Section 19.

43.2 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.

43.3 A witness who intends to provide an opening statement as part of the evidence presented in an oral hearing must file a copy of the opening statement no less than 24 hours in advance of the witness being seated.

- 43.4 A witness may be questioned by the Commission, a member of the Commission staff, or, subject to any limitations imposed by the Commission, a party or representative of that party.
- 43.5 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.

#### **44 Concurrent evidence**

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

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

- 45.1 Subject to sections 45.2 and 45.3, all oral hearings are open to the public.
- 45.2 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.
- 45.3 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.

#### **46 Filings by Commission staff**

- 46.1 If, in the Commission's opinion, it is necessary for Commission staff or an independent witness hired by the Commission to participate in a hearing, the Commission staff or the independent witness, 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 the Commission, a member of the Commission staff, or, subject to any limitations imposed by the Commission, a party or representative of that party.

## **47 Participation of the Crown**

- 47.1 The Crown may participate in a proceeding in accordance with these rules.
- 47.2 Notwithstanding Section 47.1, the Crown may file a written statement in evidence in a proceeding and need not present a witness.
- 47.3 Unless a statement filed by the Crown is presented by a witness, the statement is not subject to questioning.

## **48 Argument**

- 48.1 Argument must be in the form directed by the Commission.
- 48.2 Unless otherwise directed by the Commission, argument shall be delivered orally, subject to any person or party satisfying the Commission that written argument will permit the proceeding to be resolved in a more fair, expeditious or efficient manner.
- 48.3 The Commission may issue directions on the scope, format or content of argument, including directions imposing page limits for written argument or time limits for oral argument.
- 48.4 No argument may be received by the Commission unless it is based on the evidence before the Commission and complies with directions issued by the Commission under Section 48.3.

## **49 Decisions**

- 49.1 The Commission shall issue a decision on an application in accordance with its performance standards for dispositions.
- 49.2 If the Commission is unable to issue its decision in accordance with an applicable performance standard for dispositions, the Commission shall notify all registered parties in advance.

## **50 Applications for review**

- 50.1 Where a party seeks to have a decision reviewed by the Commission in accordance with Rule 016: *Review of Commission Decisions*, the provisions of that rule govern the review process.

## 51 Correction of errors

- 51.1 The Commission may, without notice, correct typographical, spelling and calculation errors and other similar types of errors made in any of its rulings, orders, decisions or directions.
- 51.2 The Commission may, no later than 60 days from the date that the Commission issued a decision or order and without notice, correct typographical, spelling and calculation errors and other similar types of errors and post the corrected decision or order on its website and in the eFiling System.
- 51.3 The Commission may issue a corrigenda decision to correct an error in a decision or order that is not in the nature of a typographical, spelling, calculation error or other similar type of error. It may also issue a corrigenda decision to correct typographical, spelling, calculation errors or other similar types of errors in a decision or order that are detected more than 60 days from the date of issuance of the decision or order. The corrigenda decision will indicate the changes required and attach an amended form of the original decision.