



# Broadcasting and Telecom Notice of Consultation CRTC 2010-509

PDF version

Ottawa, 23 July 2010

## Converged Rules of Procedure

*The Commission calls for comments on changes that have been made to its Proposed Rules of Procedure, which are attached as Appendix 1 to this Notice of Consultation. The Commission issued the Proposed Rules of Procedure for comment in Broadcasting and Telecom Notice of Consultation 2009-602.*

*In addition, the Commission invites comments on proposed Information Bulletins that are intended to complement and clarify the Proposed Rules of Procedure. The proposed Information bulletins are appended to this Notice of Consultation as follows:*

*Appendix 2 – Guidelines on the CRTC Rules of Procedure*

- *Appendix 3 – Broadcasting applications that do not require a public process*
- *Appendix 4 – Information that can generally be designated confidential*
- *Appendix 5 – Forms for requests for information and responses*

*The Commission will accept comments from interested parties that it receives on or before **9 September 2010**. Parties may file replies on or before **20 September 2010**.*

## Introduction

1. On 30 September 2009, the Commission issued Broadcasting and Telecom Notice of Consultation 2009-602 (Notice of Consultation 2009-602) seeking comment on new draft regulations entitled *Canadian Radio-television and Telecommunications Rules of Practice and Procedure* (the Proposed Rules of Procedure).
2. The Commission received comments and replies from broadcasting and telecommunications companies, industry associations, consumer groups and one individual in response to Notice of Consultation 2009-602.
3. The public record of this proceeding, which closed on 22 January 2010, is available on the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca) under "Public Proceedings."
4. The comments addressed many aspects of the Proposed Rules of Procedure, including suggested revisions. The Commission has carefully reviewed all of these comments and has incorporated revisions in response to many of them. Of the issues raised by the parties, the Commission has identified the following three issues to be addressed in this Notice of Consultation:
  - the form and objectives of the Rules of Procedure;

- the treatment of broadcasting applications; and
  - confidentiality and public hearings
5. Following the receipt of comments, the Commission has made extensive and substantive revisions to the Proposed Rules of Procedure published with Notice of Consultation 2009-602. As a result, the Commission considers that further public consultation is appropriate. Attached as Appendix 1 to this Notice of Consultation is a second version of the Proposed Rules of Procedure for comment on the new or revised sections. The Commission also publishes for comment Proposed Guidelines and a number of proposed or revised Information Bulletins that would complement the Proposed Rules of Procedure. The details of the Commission's call for comments can be found below.

### **The form and objectives of the Rules of Procedure**

6. In Notice of Consultation 2009-602, the Commission described the basic structure and objectives of the Proposed Rules of Procedure.
7. Most parties agreed with the Commission's general objective of converging the Rules of Procedure for both broadcasting and telecom into one document. However, the Aboriginal Peoples Television Network (APTN) opposed the convergence of the Rules of Procedure, and the Canadian Association of Broadcasters (CAB), the Canadian Film and Television Production Association (CFTPA), and TeksSavvy Solutions Inc. (TSI) expressed concern that the objective of convergence could have a negative effect on either the telecom or broadcasting industry.
8. Several parties argued that the Proposed Rules of Procedure should include all relevant rules, and that the Rules of Procedure should not incorporate documents by reference or use Information Bulletins. These parties expressed concern that this mechanism permits the Commission to make changes to the rules without public comment. Other parties argued that incorporation by reference and Information Bulletins were essential tools to ensure that the Rules remain flexible in a fast-changing environment. However, these parties also expressed concern that it would be difficult, especially for those who do not regularly participate in Commission proceedings, to understand the Rules of Procedure if they were scattered across numerous documents and difficult to find on the Commission's website.
9. TELUS Communications Corporation (TCC), among others, noted that the objectives listed in Notice of Consultation 2009-602 did not include increased public participation and other objectives originally articulated in the 1970's with the publication of the current Telecom Rules of Procedure. Some parties suggested that these objectives should be incorporated into the Proposed Rules of Procedure.

### **Commission's analysis and determinations**

10. The Commission considers that it is important to provide a converged set of Rules and Procedures that apply to all Commission proceedings while reflecting the differences between broadcasting and telecom as well as allowing flexibility to adapt

to changing technologies. Therefore, the Commission finds that it is appropriate to retain the four-part format of the Proposed Rules of Procedure, as well as the use of documents incorporated by reference and Information Bulletins where necessary.

11. To address the concerns of the parties, however, the Commission has also attached detailed Proposed Guidelines that would accompany the Proposed Rules of Procedure. These Proposed Guidelines provide, in one place, reference to all related documents, as well as a description of how the Rules of Procedure are applied. These Proposed Guidelines do not have the force of law, but are intended to complement the Proposed Rules of Procedure.
12. The Commission recognizes the concerns that certain parties have raised regarding the issuance of Information Bulletins without public comment. Generally, the Commission will publish for comment revisions to documents incorporated by reference, as well as Information Bulletins where there is a significant change to the existing procedure.
13. The Commission notes that the objectives articulated in the 1970s remain valid. These objectives are as follows:
  - to ensure that Commission proceedings are of sufficient focus and depth to permit the highest possible quality of decision making;
  - to assist regulated carriers to deal effectively with Commission concerns in respect of specific proceedings and on an ongoing basis;
  - to facilitate the involvement of the public in the regulatory process through greater informality and public access;
  - to increase the capacity of interveners to participate at public hearings in an informed way; and
  - to eliminate unnecessary delay in the regulatory process.
14. The objectives articulated in Notice of Consultation 2009-602 were meant to explain the Commission's goals for the revision and consolidation of the Proposed Rules of Procedure. The Commission has provided updated objectives of the Rules of Procedure in the Proposed Guidelines.

### **The treatment of broadcasting applications**

15. The Proposed Rules of Procedure provided that certain broadcasting applications, including applications to amend a licence and applications that are currently dealt with administratively, would be subject to the Part I Process. Under this process, interested parties would have 30 days after the application is filed to submit interventions and the applicant would have 10 days to reply. The Proposed Rules of Procedure required applicants to use application forms where provided by the Commission. The Commission indicated that it would return applications where all questions in the application form had not been answered and that the Commission would ask deficiency questions in only a limited number of cases.

16. The CAB and others argued that the Commission should maintain the status quo in the treatment of broadcasting applications. According to them, the efficiencies of the administrative process are proven and worth preserving. They also argued that removing the process of asking deficiency questions would increase the burden on applicants and interveners.
17. Others, such as Rogers, submitted that the Part I Process is appropriate for applications to amend a broadcasting licence and suggested that it be extended to applications to renew a licence that do not raise policy issues.

#### **Commission's analysis and determinations**

18. The Commission is of the view that it is appropriate to treat applications for the amendment of broadcasting licences using the Part I Process. This allows for a more efficient and standardized process. Reliance on application forms minimizes the resources the Commission and licensees must expend in asking and answering deficiency questions which are common across a type of application. Further, the fact that a Notice of Consultation is not required to begin the public process will allow the Commission to process applications in a shorter timeframe. This process does not increase the administrative burden.
19. However, the Commission has proposed a number of revisions to the Part I Process to address the concerns of parties. These revisions include calculating the deadline for the filing of interventions from the date the application is posted on the Commission website rather than from the date it is filed with the Commission.
20. The Commission, however, is of the view that it is more efficient not to apply the Part I process to licence renewal applications, since the current approach provides the Commission with the flexibility to group renewal applications together according to various criteria. The Commission agrees that it is appropriate to continue to treat certain applications administratively, given the proven efficiencies of this process. The Commission has excluded these types of applications from the application of the Proposed Rules of Procedure.

#### **Confidentiality and public hearings**

21. The CAB, among others, expressed concern that the Commission proposed to adopt the model for confidentiality currently used in the telecom sector for the broadcasting sector. The CAB argued that this approach lacked the clarity and certainty currently provided in broadcasting proceedings by the Commission's Circular 429, which list the types of information that is generally considered confidential. The CAB also raised concerns with the removal of the right of broadcasting applicants to withdraw a document that has not been granted confidentiality.
22. Many parties recommended the addition of more detailed rules for the conduct of public hearings, including policy hearings, including rules regarding *in camera* hearings, preparatory conferences, and a prohibition on the introduction of new evidence.

### **Commission's analysis and determinations**

23. The Commission considers that it is appropriate to maintain a converged set of rules outlining how the Commission will deal with confidential information. Given the convergence occurring in the broadcasting and telecom industries, there are significant benefits in applying one consistent set of criteria using a single procedure across all Commission proceedings.
24. However, the Commission also acknowledges the importance of having clear rules as to what types of information can be designated confidential. As such, the Commission proposes to articulate the categories of information that can be designated confidential in the Proposed Rules of Procedure, and to provide a converged list of the specific types of information that is generally treated as confidential in an Information Bulletin, which is attached as Appendix 4.
25. In addition, the Commission has revised the Rules of Procedure to clarify that, in a broadcasting proceeding, if the Commission determines that the information should be disclosed, the author of the confidential designation may choose to confirm the designation. In these circumstances, the Commission may disclose the information or maintain it in confidence, in which case the information will be inadmissible in evidence. This revision captures the former rule in broadcasting that permitted broadcasting applicants to withdraw information that the Commission has requested be disclosed.
26. The Commission agrees that it is appropriate to provide more detailed rules on the conduct of public hearings, including the rules that would apply in an *in camera* hearing.

### **Other changes to the Proposed Rules of Procedure**

27. In addition to these major themes, many parties proposed changes to specific sections of the Proposed Rules of Procedure.
28. This Notice of Consultation will not address each of these. However, the Commission has considered all suggested changes. In some cases, the Commission revised the Proposed Rules of Procedure to address the concerns raised. Where a comment indicated the need for further clarity on how a specific rule would be applied, the Commission has generally provided additional explanation or information in the Proposed Guidelines.
29. The Commission has also modified certain rules on its own initiative. For example, the Commission has added a deadline for the filing of review and vary applications in telecom.
30. Currently, it is Commission policy, set out in Telecom Public Notice 98-6, that an application to review and vary a decision under the *Telecommunications Act* must be made within six months after the decision. The Commission considers that in order to

provide regulatory certainty it is important to prescribe a deadline for filing review and vary applications in the Rules of Procedure.

31. The Commission notes that the *Telecommunications Act* provides a deadline of 90 days for the filing of a petition to the Governor-in-Council to review a Commission decision. The Commission is of the opinion that this delay is also reasonable for review and vary applications to the Commission. As such, Rule 69 of the Proposed Rules of Procedure states that a review and vary application must be filed within 90 days after the decision.

### **Call for comments**

32. The Commission invites comments on the changes that have been made to the Proposed Rules of Procedure, attached as Appendix 1 to this Notice of Consultation. In particular, the Commission has made substantive revisions to the following sections:

- Rule 1: defines party and respondent.
- Rule 3(2): excludes applications listed in Schedule 1, including those dealt with administratively or through alternative dispute resolution.
- Rule 4(2): adds a ‘gap rule.’
- Rule 11 (1)(b) and (c): add a winter holiday and midnight, Gatineau time in calculating deadlines.
- Rules 12(1)(a), 20(2), and 64(2): incorporate by reference Information Bulletin 2010-453 which lists the Commission’s application forms and provides rules for filing documents by electronic means.
- Rules 12(3) and 17(c): clarify how long proof of filing and service must be retained.
- Rule 12(3): clarifies the process when a party is requested to file a document in an alternative format.
- Rule 15(2): clarifies that it is a document’s content that must be verified by affidavit upon request.
- Rule 20(2)(b): requires an applicant to provide an email address where an electronic version of the application can be requested.
- Rule 20(2)(f): clarifies that an applicant proposes changes that the Commission should make to the procedure.
- Rule 21: a new rule which obliges the Commission to post an application on its website, as the first step in the ‘Part I Process.’

- Rule 22: This rule, which prohibits an applicant from adding to or amending an application after it has been posted on the Commission's website, has been moved from Part III (broadcasting only) to Part I (converged).
- Rules 23(1) and 24(1): provide that the deadline for filing an answer or intervention is calculated from the date the application is posted on the Commission's website.
- Rule 25(2)(e): requires an applicant to serve its reply only on respondent(s) or intervener(s) to whom the applicant is replying.
- Rule 27(1): provides that a person can request production of a copy of any document mentioned on the record by another party but not placed on the record.
- Rule 28: a new rule which clarifies that in broadcasting the information on the record of a proceeding is to be public and that confidentiality is the exception.
- Rule 29(1): a new rule which identifies what types of information can be designated confidential in broadcasting (same as those listed in the *Telecommunications Act*).
- Rules 31(1) and (2): provide that only a party (rather than a person) can request disclosure of information designated confidential in a proceeding under the Rules of Procedure.
- Rules 31(3) and (4): increase the time period for replying to a request for disclosure from 5 to 10 days.
- Rule 32(2): permits parties in broadcasting proceedings to confirm the designation of information as confidential after the Commission has decided that the information should be disclosed, in which case, if the Commission agrees, the information would not be disclosed and instead would not be admissible in evidence in the proceeding.
- Rules 33 and 34(1): set out the content of a Notice of Consultation and notice to be provided by applicants in a proceeding – a rule which was moved from Part III (broadcasting) to Part I (converged).
- Rule 33(2)(c): provides that the Chairperson fixes the place of a telecom hearing.
- 34(2): provides that the Commission may extend the obligation to provide notice of a hearing to regulated companies participating in a policy hearing.
- Rule 35: a new rule which sets deadlines for the Commission to send an invitation to appear and for parties to file the list of persons who will appear on their behalf.
- Rule 36: a new rule which provides for pre-hearing conferences.

- Rules 37 and 38: new rules which provide the procedure to be followed during an *in camera* hearing.
- Rule 39: sets out the order in which parties will appear at a hearing, including respondents.
- Rule 40: a new rule which prohibits the introduction of new evidence at a hearing.
- Rule 44: limits the application of Part II (complaints) to complaints made by consumers rather than regulated companies.
- Rules 54 and 55: clarify the treatment of licensees called to a mandatory order hearing.
- Rule 56: incorporates by reference Regulatory Policy 2009-428, which sets out additional rules for proceedings to review ownership and control in telecom.
- Rule 69: a new rule which requires applicants to file a review and vary application in telecom within 90 days of the decision.
- Rules 71 and 72: no longer specify the rules for the form of interrogatory questions and responses, which are now found in the proposed Information Bulletin attached as Appendix 5 to this Notice of Consultation.

33. In addition, the Commission is issuing, as Appendices to this Notice of Consultation, the following proposed Information Bulletins. These Information Bulletins are intended to complement and clarify the Proposed Rules of Procedure.

**Appendix 2 – Guidelines on the CRTC Rules of Procedure**

34. The Commission requests comment on whether these Guidelines accurately reflect the Rules of Procedure and whether the explanations provided are understandable and appropriate.

**Appendix 3 – Broadcasting applications that do not require a public process**

35. The Commission requests comment on whether the rules and procedures for the administrative process set out in this document are appropriate.

36. The Commission notes that its determinations in this matter may require minor changes to Information Bulletin 2008-8, which sets out the Commission's processes for dealing with certain processes involving the ownership of broadcasting undertakings.

**Appendix 4 – Information that can generally be designated as confidential**

37. The Commission requests comment on whether the list of information that generally can be designated as confidential set out in the proposed Information Bulletin is appropriate and whether it reflects current practice for broadcasting applications.

**Appendix 5 – Format for requests for information and responses**

38. The Commission requests specific suggestions and proposals for simplifying the format of interrogatories to make it more flexible so that it reflects the needs of parties and of the Commission. Parties may also wish to explain the implications that their suggestions or proposals could have for the interrogatory process.

39. The Commission will accept comments from interested persons that it receives on or before **9 September 2010**.

40. Parties may file replies on or before **20 September 2010**.

41. The Commission will not formally acknowledge comments. It will, however, fully consider all comments and they will form part of the public record of the proceeding provided that the procedures for filing set out below have been followed.

**Procedure for filing comments**

42. Interested parties can file their comments to the Secretary General of the Commission in only one of the following formats:

**by using the**  
[[Broadcasting interventions/comments form](#)]

**by mail to**  
CRTC, Ottawa, Ontario K1A 0N2

or

**by fax at**  
819-994-0218

43. The Commission advises those who file and serve by electronic means to exercise caution when using e-mail for service of documents or notification, as it may be difficult to establish that service has occurred.

44. Parties must ensure that, before initiating service through electronic mode, they will be able to satisfy the Commission, upon request, that service of the notification was completed.

45. Submissions longer than five pages should include a summary.

46. Each paragraph of the submission should be numbered. In addition, where the comment is filed by electronic means, the line **\*\*\*End of document\*\*\*** should be

entered following the last paragraph of the document, as an indication that the document has not been damaged during electronic transmission.

### **Important notice**

47. Note that all information that parties provide as part of this public process, except information granted confidentiality, whether sent by postal mail, facsimile, e-mail or through the Commission's website at [www.crtc.gc.ca](http://www.crtc.gc.ca), becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes personal information, such as full names, e-mail addresses, postal/street addresses, telephone and facsimile numbers, and any other personal information parties provide.
48. The personal information that parties provide will be used and may be disclosed for the purpose for which the information was obtained or compiled by the Commission, or for a use consistent with that purpose.
49. Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as received, including any personal information contained therein, in the official language and format in which they are received. Documents not received electronically will be available in PDF format.
50. Please note that the information that parties provide to the Commission as part of this public process is entered into an unsearchable database dedicated to this specific public process. This database is accessible only from the web page of this particular public process. As a result, a general search of the Commission's website with the help of either its own search engine or a third-party search engine will not provide access to the information that was provided as part of this public process.
51. The Commission encourages interested parties to monitor the public examination file and the Commission's website for additional information that they may find useful when preparing their comments.

### **Examination of documents**

52. A list of all comments will be available on the Commission's website. An electronic version of all comments submitted will be accessible from this list. To access the list, select "Lists of interventions/comments" under "Public Proceedings" from the Commission's website.
53. Documents are also available during normal office hours at the local address provided in this notice and at the Commission offices and documentation centres directly involved with these applications, or, upon request, within two (2) working days, at any other Commission offices and documentation centres.

## **Location of Commission offices**

Toll-free telephone: 1-877-249-2782

Toll-free TDD: 1-877-909-2782

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Secretary General

**Related documents**

- *Call for comments on new draft regulations concerning CRTC Rules of Practice and Procedure, Broadcasting and Telecom Notice of Consultation CRTC 2009-602, 30 September 2009*
- *A guide to the CRTC application process for changes in effective control and certain transfers of shares of broadcasting undertakings as well as for the acquisition of assets of broadcasting undertakings – Information bulletin, Broadcasting Circular CRTC 2008-8, 21 November 2008*

## Appendix 1 to the Broadcasting and Telecom Notice of Consultation CRTC 2010-509

Notice is hereby given, pursuant to subsection 10(3) of the *Broadcasting Act*<sup>a</sup> and subsection 69(1) of the *Telecommunications Act*<sup>b</sup>, that the Canadian Radio-television and Telecommunications Commission, pursuant to sections 10 and 21 of the *Broadcasting Act*<sup>a</sup> and sections 57 and 67<sup>c</sup> of the *Telecommunications Act*<sup>b</sup>, proposes to make the annexed *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*.

Interested persons may make representations with respect to the proposed Rules within 45 days after the date of publication of this notice. All such representations must cite the *Canada Gazette*, Part I, and the date of publication of this notice, and be addressed to the Secretary General, Canadian Radio-television and Telecommunications Commission, Ottawa, Ontario K1A 0N2.

Gatineau, Quebec, 2010

Robert A. Morin  
Secretary General  
Canadian Radio-television and  
Telecommunications Commission

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<sup>a</sup> S.C. 1991, c. 11

<sup>b</sup> S.C. 1993, c. 38

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## SCHEDULE 2

# CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION RULES OF PRACTICE AND PROCEDURE

## DEFINITIONS

### Definitions

**1.** The following definitions apply in these Rules.

“document”

« document »

“document” has the meaning assigned by the definition “record” in section 3 of the *Access to Information Act*.

“party”

« partie »

“party” means an applicant, respondent or intervener.

“person”

« personne »

“person” has the same meaning as in subsection 2(1) of the *Telecommunications Act*.

“respondent”

« intimé »

“respondent” means a person that is adverse in interest to an applicant.

## MATTERS BEFORE THE COMMISSION

### How matters are brought before Commission

**2.** A matter may be brought before the Commission by an application or complaint or on the Commission’s own initiative.

*Note: Under section 12 of the Telecommunications Act, the Governor in Council may refer back to the Commission for reconsideration a decision by the Commission, and under section 14, it may require the Commission to make a report on any matter within the Commission’s jurisdiction under the Act or any special Act. Under section 15 of the Broadcasting Act, the Governor in Council may request the Commission to hold hearings or make reports on any matter within the jurisdiction of the Commission under that Act, and under section 28, the Governor in Council may refer back to the Commission for reconsideration and hearing of the matter a decision by the Commission to issue, amend or renew a licence.*

## PART 1

### RULES APPLICABLE TO BROADCASTING AND TELECOMMUNICATIONS

#### Application

**3.** (1) Except as otherwise provided in these Rules, this Part applies to all proceedings before the Commission.

#### Exception

(2) These Rules do not apply to a proceeding arising from a contravention of a prohibition or requirement of the Commission for which a person is liable to an administrative monetary penalty under sections 72.01 to 72.15 of the

*Telecommunications Act*, or to a proceeding arising from an application listed in Schedule 1.

## GENERAL RULES

### *Powers of the Commission*

Power to act

**4.** (1) The Commission may exercise any of its powers under these Rules at the request of a party or interested person or on its own initiative.

Matters not provided for

(2) The Commission may provide for any matter of practice and procedure not provided for in these Rules by analogy to these Rules or by reference to the *Federal Courts Rules* and the rules of other tribunals to which the subject matter of the proceeding most closely relates.

Information bulletins

**5.** The Commission may issue information bulletins regarding matters within its jurisdiction, including

(a) the application of these Rules and the Commission's regulatory policies and decisions; and

(b) the format and numbering of documents to be filed, the software to be used to file them and the procedure for their filing.

Dispensing with or varying Rules

**6.** If the Commission is of the opinion that considerations of public interest or fairness permit, it may dispense with or vary these Rules, including by way of directions.

Return of application or complaint

**7.** If an application or complaint does not comply with a requirement of these Rules, the Commission may return the application or the complaint to the applicant or the complainant so that the deficiencies may be remedied or it may close the file.

Defect in form

**8.** The Commission must not dismiss an application or complaint by reason solely of a defect in form.

Other powers

**9.** The Commission may

(a) if it is of the opinion that the circumstances or considerations of fairness permit, adjourn a proceeding;

(b) if it is of the opinion that the circumstances or considerations of fairness permit, combine two or more proceedings;

(c) decide whether to admit a document as evidence;

(d) order to be amended or struck out a document or part of a document that, in its opinion, might prejudice a party or delay the hearing of the matter on the merits;

(e) provide an opportunity for the parties to make written or oral representations; and

(f) in the event of a reference to the Federal Court, stay the whole or any part of a proceeding pending the decision of the Court.

Relief

**10.** In broadcasting matters, the Commission may approve the whole or any part of an application or grant any relief in addition to or in substitution for the relief applied for.

*Note: Section 60 of the Telecommunications Act provides in part for the same rule in relation to telecommunications matters.*

*Time*

Computation of time

**11.** (1) Sections 26 to 29 of the *Interpretation Act* apply to the computation of a time period set out in these Rules or a decision, notice of consultation, regulatory policy or information bulletin, except that

- (a) Saturday is considered to be a holiday;
- (b) a time period for the filing of a document with the Commission ends at midnight, Gatineau time; and
- (c) the period beginning on December 21 in one year and ending on January 7 in the following year must not be included in the computation of a time period.

Calendar days

(2) A time period is computed in calendar days.

*Filing and Service of Documents*

Filing of documents

**12.** (1) A document must be filed with the Commission

- (a) in the case of an application, by sending the document to the Office of the Secretary General by any electronic means that permits its intelligible reception, as set out in Information Bulletin CRTC 2010-453, as amended from time to time; and
- (b) in the case of any other document, by delivering it by hand to the Office of the Secretary General, or sending it to the Office by mail or any electronic means that permits its intelligible reception.

Filing at hearing

(2) When a hearing of the Commission is in progress, a document may also be filed by delivering the document by hand to the secretary of the hearing.

Record of transmission

(3) If a document is sent by electronic means, the sender must keep proof of the sending and the receipt of the document for 30 days after the day on which the Commission's final decision on the matter is posted on the Commission's website.

Alternative formats

**13.** (1) The Commission may, on its own initiative or at the request of a person with a disability or their designated representative, request a party to file and serve a document in an alternative format.

Alternative measure

(2) Within 10 days after the day on which the Commission makes its request, the party must comply with the request or propose an alternative measure.

Filing day

**14.** (1) A document is filed

- (a) if it is delivered by hand, on the day on which it is delivered; or
- (b) if it is sent by mail or electronic means, on the day on which it is received by the Office of the Secretary General.

Holiday

(2) A document received on a holiday is considered to be received on the next business day.

Verification of documents

**15.** (1) The Commission may order a person that has filed a document to verify its content by affidavit and, in case of refusal, may strike out the document.

Grounds of belief

(2) If an affidavit is made as to belief, the grounds on which the belief is based must be set out in the affidavit.

Deadline for service

**16.** A document that is required to be served must be served, along with the documents that accompany it, on or before the day on which it is filed.

Service of documents

- 17.** A document must be served on a person
- (a) by delivering a copy of the document by hand
    - (i) to the person, or
    - (ii) if the person is a partnership, body corporate or unincorporated organization, to a partner, officer or director, or to their designated representative;
  - (b) by sending a copy of the document by mail to the last known address of the person or their designated representative; or
  - (c) by sending the document by any electronic means that permits its intelligible reception to the person or their designated representative, in which case the sender must keep proof of the sending and the receipt of the document for 30 days after the day on which the Commission's final decision on the matter is posted on the Commission's website.

Service day

- 18.** Service of a document is effected
- (a) if it is delivered by hand, on the day on which it is delivered; or
  - (b) if it is sent by mail or electronic means, on the day on which it is received.

Proof of service

**19.** (1) At the Commission's request, proof of service, or, if there is none, an affidavit in lieu of proof, must be filed with the Commission.

Content of proof

- (2) Proof of service or an affidavit must include or be accompanied by the following information:
- (a) the name, address, telephone number and email address of the person that served the document;
  - (b) the day on which the document was delivered by hand or sent by mail or electronic means and, if it was sent by electronic means, the date and time it was sent and received; and
  - (c) if the document was served by facsimile, the total number of pages transmitted including the cover page, the facsimile number from which it was sent and the name of the person that sent it.

### *Application*

Filing and service of application

- 20.** (1) An application must be
- (a) filed with the Commission;
  - (b) served on any respondent and any other persons that the Commission directs; and
  - (c) accompanied by a list of the persons on whom the application is served and the email address of each, if any.

Form and content of application

- (2) An application must be made using the appropriate form listed in Information Bulletin CRTC 2010-453, as amended from time to time. If none of the forms listed in the Information Bulletin is appropriate, the application must
- (a) set out the name, address and email address of the applicant and any designated representative;

- (b) set out the applicant's website address or, if the application is not posted on their website, the email address where an electronic copy of the application may be requested;
- (c) be divided into parts and consecutively numbered paragraphs;
- (d) identify the statutory or regulatory provisions under which the application is made;
- (e) contain a clear and concise statement of the relevant facts, of the grounds of the application and of the nature of the decision sought;
- (f) set out any amendments or additions to these Rules proposed by the applicant; and
- (g) include any other information that might inform the Commission as to the nature, purpose and scope of the application, and be accompanied by any supporting documents.

Posting of application

**21.** The Commission must post on its website all applications that comply with the requirements set out in section 20.

Restrictions

**22.** An applicant must not amend an application or file any supplementary documents related to the application after the application has been posted on the Commission's website.

### *Answer to Application*

Deadline for filing answer

**23.** (1) A respondent may file an answer with the Commission within 30 days after the day on which the Commission posts the application on its website.

Form and content of answer

(2) The answer must

- (a) set out the name, address and email address of the respondent and any designated representative;
- (b) be divided into parts and consecutively numbered paragraphs;
- (c) admit or deny the facts alleged in the application;
- (d) contain a clear and concise statement of the relevant facts, of the grounds of the answer and of the nature of the decision sought;
- (e) include any other information that might inform the Commission as to the nature, purpose and scope of the answer, and be accompanied by any supporting documents;
- (f) be accompanied by a list of the persons on whom the answer is served and the email address of each, if any; and
- (g) be served on the applicant, any other respondent and any other persons that the Commission directs.

### *Intervention*

Deadline for intervening

**24.** (1) Any interested person may intervene in a proceeding in writing within 30 days after the day on which the application is posted on the Commission's website or, if a

notice of consultation is posted by the Commission on its website, within the time period set out in the notice.

Form and content of document

- (2) The document of the interested person must
- (a) state that the person wishes to be considered as an intervener in the proceeding;
  - (b) set out the name, address and email address of the person and any designated representative;
  - (c) be divided into parts and consecutively numbered paragraphs;
  - (d) admit or deny the facts alleged in the application;
  - (e) clearly state whether the person supports or opposes the application and the nature of the decision sought;
  - (f) contain a clear and concise statement of the relevant facts and of the grounds for the person's support for or opposition to the application and the reasons for the decision sought;
  - (g) state whether the person wishes to participate in any future hearing in person;
  - (h) state any reasonable accommodation required to enable the person to participate in any future hearing;
  - (i) include any other information that might inform the Commission as to the nature, purpose and scope of the intervention, and be accompanied by any supporting documents;
  - (j) be accompanied by a list of the persons on whom the document is served and the email address of each, if any; and
  - (k) be served on the applicant and any other persons that the Commission directs.

### *Reply*

Deadline for filing reply

**25.** (1) The applicant may file a reply to an answer or to the document of an intervener with the Commission within 10 days after the deadline for the filing of the answer or the deadline for intervening in the proceeding, as the case may be.

Form and content of reply

- (2) The reply must
- (a) be restricted to the points raised in the answer or the document;
  - (b) admit or deny the facts alleged in the answer or the document;
  - (c) state the grounds of objection or opposition, if any, to points raised in the answer or the document;
  - (d) be accompanied by a list of the persons on whom the reply is served and the email address of each, if any; and
  - (e) be served on the respondents and the interveners to whom the applicant is replying and any other persons that the Commission directs.

### *Request for Information or Documents*

Requirement for information and representations

**26.** (1) The Commission may require a party

(a) to provide information, particulars or documents that it considers necessary to enable the Commission to reach a full and satisfactory understanding of the subject matter of the proceeding; or

(b) to make written or oral representations on any matter related to the proceeding.

Authority to represent other person

(2) The Commission may also require the representative of a person to file with it evidence of their authority to represent the person.

Request for documents

**27.** (1) A party may request in writing that any other party produce for the requesting party's inspection a copy of any document that has been referred to in a document that the other party has filed with the Commission and to permit the requesting party to make copies of it.

Filing and service of request

(2) The requesting party must file its request with the Commission and serve it on the other party.

Failure to produce document

(3) A party that fails to produce a copy of the document within 10 days after the day on which the request is filed must not rely on the document.

Electronic version or link

(4) In order to comply with the request, the party may produce an electronic version of the document or provide an electronic link to the document, where it may be accessed free of charge.

### *Confidential Information*

Documents public

**28.** In broadcasting matters, the Commission must make available for public inspection any information submitted to the Commission in the course of proceedings before it to the extent that the information is not designated as confidential.

*Note: Section 38 of the Telecommunications Act provides for the same rule in relation to telecommunications matters.*

Designation subject to filing

**29.** (1) In broadcasting matters, a party may designate information referred to in paragraphs 39(1)(a) to (c) of the *Telecommunications Act* as confidential if they file it with the Commission.

*Note: Subsection 39(1) of the Telecommunications Act provides for the same rule in relation to telecommunications matters.*

Timing of designation

(2) The party must make the designation at the time that they file the document that contains the information.

Reasons for designation

**30.** (1) The party that designates information as confidential must provide reasons, as well as any supporting documents, why the disclosure of the information would not be in the public interest, including why the specific direct harm that would be likely to result to them from the disclosure would outweigh the public interest.

Abridged version

(2) The party must either file an abridged version, intended to be made available to the public, of the document that contains the information or provide reasons, as well as any supporting documents, why an abridged version cannot be filed.

Request for disclosure

**31.** (1) A party that files a request with the Commission for the disclosure of information that has been designated as confidential must provide reasons, as well as any

supporting documents, why the disclosure would be in the public interest, including how the information is relevant to the Commission's regulatory responsibilities.

Service

(2) The requesting party must serve the request on the author of the designation.

Reply

(3) The author of the designation may file a reply with the Commission within 10 days after the day on which the request is filed, and must serve the reply on the requesting party.

Reply to request from Commission

(4) If the Commission requests disclosure of the information, the author of the designation may file a reply with the Commission within 10 days after the day on which they receive the request.

Disclosure criterion

**32.** (1) In broadcasting matters, the Commission may disclose or require the disclosure of information designated as confidential if it is of the opinion that the disclosure is in the public interest.

*Note: Subsection 39(4) of the Telecommunications Act provides in part for the same rule in relation to telecommunications matters.*

Information not admissible in evidence

(2) If the author of the designation confirms the designation and the Commission does not disclose or require the disclosure of the information, the information is not admissible in evidence.

## RULES APPLICABLE TO PUBLIC HEARINGS

Notice of consultation

**33.** (1) Before holding a public hearing during which the Commission will request any of the parties to appear before it, the Commission must post a notice of consultation on its website.

Content of notice

(2) The notice must set out

- (a) the nature of the matters to be considered and the deadline for intervening in the proceeding;
- (b) the date and time of the commencement of the hearing; and
- (c) the place of the hearing, which in telecommunications matters is fixed by the Chairperson of the Commission.

*Note: Subsection 18(4) of the Broadcasting Act grants the Chairperson of the Commission the power to designate the place of a public hearing in relation to broadcasting matters.*

Obligations of applicant

**34.** (1) If a public hearing is in respect of an application, the applicant must

- (a) no later than five days after the day on which the Commission posts the notice of consultation on its website, post the notice or an electronic link to it on the homepage of their own website and keep it posted until the deadline for intervening in the proceeding; and
- (b) give notice of the notice of consultation in any manner that the Commission directs, including through broadcast over the applicant's facilities or by service to any person that the Commission directs, and the notice must set out
  - (i) the nature of the matters to be considered,
  - (ii) the deadline for intervening in the proceeding, and
  - (iii) the date and time of the commencement of the hearing.

Obligations of licencees and telecommunications service providers

(2) If a public hearing is in respect of a regulatory policy, the Commission must determine which licensees and telecommunications service providers must fulfill the obligations set out in subsection (1).

Notice of appearance

**35.** (1) No later than 10 days before the date of the commencement of the public hearing, the Commission must notify in writing any party that the Commission requests to appear before it in person or by videoconference.

List of persons appearing

(2) No later than seven days before the date of commencement of the public hearing, the party must file with the Commission a list of the persons who will represent or accompany the party.

Preparatory conference

**36.** The Commission may request the parties to appear prior to a public hearing before one of its members, as that term is defined in section 2 of the *Canadian Radio-television and Telecommunications Commission Act*, or any other person designated by the Commission, on a day and at a time and place specified by the Commission, for the purpose of formulating the issues and considering

- (a) the simplification of the issues;
- (b) the necessity or desirability of amending the application, answer, intervention or reply;
- (c) the making of admissions of certain facts, the proof of certain facts by affidavit or the use by a party of matters of public record;
- (d) the procedure to be followed at the hearing;
- (e) the mutual exchange by the parties of documents and exhibits that the parties intend to submit at the hearing; and
- (f) any other matters that might aid in the simplification of the evidence and disposition of the proceedings.

In camera

**37.** (1) The Commission may, at the request of a party or on its own initiative, order a hearing to be held in whole or in part *in camera* to discuss information that the party has designated, or may wish to designate, as confidential under subsection 39(1) of the *Telecommunications Act* or section 29.

Participants

(2) Only the party, the party's representatives and the Commission's representatives may participate in the *in camera* discussions.

Transcript of discussions

(3) Only the party that participated in the *in camera* discussions is to be provided with a transcript of the discussions.

Designation of confidential information

**38.** (1) Sections 29 to 32 apply, to the extent provided, to the designation of information as confidential in the transcript of the *in camera* discussions.

Filing of transcript and abridged version

- (2) In broadcasting and in telecommunications matters, the party must
- (a) file the transcript and the abridged version with the Commission within the time period established by the Commission; and
  - (b) identify any information contained in the transcript that they have already designated as confidential in another document.

Order of appearance

- 39.** The parties must be heard in the following order at a public hearing:
- (a) applicants;

- (b) respondents;
- (c) interveners; and
- (d) applicants, in reply.

Evidence

**40.** Only evidence submitted in support of statements contained in an application, answer, intervention or reply, or in documents or supporting material filed with the Commission, is admissible at a public hearing.

Administration of oaths

**41.** The Commission may require a person who appears before it to be sworn or affirmed.

Simultaneous sittings

**42.** The Commission may, in relation to one proceeding, hold sittings simultaneously in more than one location.

Format of subpoena

**43.** A subpoena, which the Commission may refuse to issue, must be in the form set out in Schedule 2, be signed by the Secretary General and be sealed with the Commission's seal.

## PART 2

### RULES APPLICABLE TO COMPLAINTS

Form and content of complaint

- 44.** A consumer complaint that is not related to an application must
- (a) be filed with the Commission;
  - (b) set out the name and address of the complainant and any designated representative and the email address of each, if any;
  - (c) set out the name of the person against whom it is made;
  - (d) contain a clear and concise statement of the relevant facts, the grounds of the complaint and the nature of the decision sought; and
  - (e) state whether the complainant wishes to receive documents related to the complaint in an alternative format.

Application or intervention instead of complaint

**45.** The Commission may, if it considers it just and expedient to do so, require a complainant to file their complaint as an application or to intervene in any proceeding relating to the matter raised by the complaint.

Sending complaint to person against whom complaint is made

**46.** If the Commission decides to consider a complaint, it must send a copy of the complaint to the person against whom it is made.

Response

**47.** The person against whom a complaint is made may file a response with the Commission within 20 days after the day on which they receive a copy of the complaint and they must serve the response on the complainant.

Measures

**48.** If the Commission is not satisfied with a response, it may take any measures that it considers necessary.

Copy placed on licensee's file

**49.** The Commission may place a copy of a complaint against a licensee and the licensee's response on the licensee's file to be considered at the time of their licence renewal.

Emergency telecommunications complaint

**50.** (1) A complaint seeking relief on an emergency basis in relation to a telecommunications matter may be made orally to a designated employee of the Commission.

Interim *ex parte* order

(2) If an interim settlement cannot be reached, the Commission may issue an interim *ex parte* order, in which case the complainant must file their complaint in writing with the Commission within five days after the day on which the order is issued.

## PART 3

### RULES APPLICABLE TO CERTAIN BROADCASTING APPLICATIONS

#### APPLICATION FOR ISSUANCE OR RENEWAL OF LICENCE

Notice of consultation

**51.** The Commission must post on its website a notice of consultation in relation to any application made to the Commission for the issuance or renewal of a licence under subsection 9(1) of the *Broadcasting Act*, and must provide in the notice an electronic link to the application.

Application considered an intervention

**52.** If two or more applications for the issuance of a licence are made in respect of the same area or locality and it is reasonable to believe that not all applications will be approved, each application is considered to be an intervention in respect of the others but sections 24 and 25 do not apply.

Order of replies at public hearing

**53.** If a public hearing relates to two or more applications for the issuance of a licence made in respect of the same area or locality and it is reasonable to believe that not all applications will be approved, the applicants must reply in the reverse order to that in which they were heard.

#### PROCEEDING UNDER SECTION 12 OF BROADCASTING ACT

Licence holder considered applicant

**54.** In a proceeding initiated by the Commission's decision to inquire into, hear and determine a matter under section 12 of the *Broadcasting Act*, the licensee is considered to be an applicant for the purposes of sections 25, 34 and 39.

Licence holder must be heard

**55.** No later than 15 days before the day on which the deadline for intervening in the proceeding expires, the Commission must allow the licensee to review the documents relied on by the Commission in its decision to review the matter, and to provide comments and file supporting documents.

## PART 4

### RULES APPLICABLE TO CERTAIN TELECOMMUNICATIONS APPLICATIONS

#### APPLICATION FOR REVIEW OF CANADIAN OWNERSHIP AND CONTROL

Procedural requirements

**56.** (1) An application to the Commission for the review of Canadian ownership and control under section 16 of the *Telecommunications Act* is subject to the procedural requirements established by the Commission in Regulatory Policy CRTC 2009-428, as amended from time to time.

Non-application of certain provisions

(2) Sections 21 and 23 do not apply to such an application.

APPLICATION TO APPROVE OR AMEND TARIFFS OR TO APPROVE AN AGREEMENT BETWEEN  
CARRIERS

Procedural requirements

**57.** (1) An application to the Commission for the approval of a new or amended tariff under section 25 of the *Telecommunications Act* or for the approval of an agreement between carriers referred to in section 29 of that Act is subject to the procedural requirements established by the Commission in Information Bulletin CRTC 2010-455, as amended from time to time.

Non-application of certain provisions

(2) Sections 21 and 23 do not apply to such an application.

APPLICATION TO AWARD COSTS

*Interim Costs*

Application for interim costs

**58.** A party that considers that they do not have sufficient financial resources to participate effectively in a proceeding may file an application for interim costs with the Commission under section 56 of the *Telecommunications Act*.

Content of application

**59.** (1) In the application, the party must

(a) demonstrate that they

(i) have, or represent a group or a class of subscribers that has, an interest in the outcome of the proceeding,

(ii) can assist the Commission in developing a better understanding of the matters to be considered, and

(iii) do not have sufficient financial resources to participate effectively in the proceeding;

(b) undertake to participate in the proceeding in a responsible way;

(c) indicate the amount of costs requested, with receipts or detailed estimates; and

(d) identify the respondents that should pay the costs.

Service

(2) The party must serve the application on all other parties.

Answer

**60.** The other parties may file an answer with the Commission within 10 days after the day on which the application for interim costs is filed and they must serve their answer on all parties.

Criteria for awarding interim costs

**61.** The Commission must use the following criteria to determine whether to award interim costs and the amount that is to be awarded:

(a) whether the applicant has, or is the representative of a group or a class of subscribers that has, an interest in the outcome of the proceeding;

- (b) the extent to which the applicant can assist the Commission in developing a better understanding of the matters to be considered;
- (c) whether the applicant has sufficient financial resources to participate effectively in the proceeding; and
- (d) whether the applicant undertook to participate in the proceeding in a responsible way.

Application for final costs

**62.** A party that has been awarded interim costs is required to file an application for final costs with the Commission.

### *Final Costs*

Deadline for filing application for final costs

**63.** An application for final costs must be filed no later than 30 days after the day fixed by the Commission for the filing of final representations.

Content of application for final costs

- 64.** (1) In the application, the applicant must
- (a) demonstrate that they
    - (i) have, or represent a group or a class of subscribers that has, an interest in the outcome of the proceeding,
    - (ii) assisted the Commission in developing a better understanding of the matters that were considered, and
    - (iii) participated in the proceeding in a responsible way;
  - (b) identify the respondents that should pay the costs; and
  - (c) if interim costs were awarded to them, provide an explanation of any difference between those interim costs and the final costs for which they are applying.

Documents to be attached

(2) The applicant must attach to the application the appropriate taxation forms listed in Information Bulletin CRTC 2010-453, as amended from time to time.

Service

- (3) The applicant must serve the application on all other parties.

Answer

**65.** The other parties may file an answer with the Commission within 10 days after the day on which the application for final costs is filed and they must serve their answer on all parties.

Criteria for awarding final costs

**66.** The Commission must use the following criteria to determine whether to award final costs and the maximum percentage of costs that is to be awarded:

- (a) whether the applicant had, or was the representative of a group or a class of subscribers that had, an interest in the outcome of the proceeding;
- (b) the extent to which the applicant assisted the Commission in developing a better understanding of the matters that were considered; and
- (c) whether the applicant participated in the proceeding in a responsible way.

Taxing officer

**67.** If the Commission appoints a taxing officer, it must set out the procedure to be followed by the officer.

### *Fixing and Taxing of Costs*

Criteria for fixing and taxing costs

**68.** (1) In fixing costs or taxing final costs, the Commission or the taxing officer, as the case may be, must take into consideration any financial assistance received by the applicant from all sources for the purpose of participating in Commission proceedings under the *Telecommunications Act*.

Limit

(2) The total amount of the costs must not exceed the total amount of costs necessarily and reasonably incurred by the applicant or the costs set out in the scale of costs established by the Commission under subsection 56(2) of the *Telecommunications Act*.

APPLICATION TO REVIEW, RESCIND OR VARY A DECISION OF THE COMMISSION

Deadline for filing application to review, rescind or vary Commission decision

**69.** An application to review, rescind or vary a decision of the Commission under section 62 of the *Telecommunications Act* must be filed with the Commission within 90 days after the date of the decision.

REQUEST FOR INFORMATION

Request for information

**70.** (1) A party may, with the Commission's approval, request information from another party.

Filing and service

(2) The requesting party must file a request with the Commission on or before the deadline established by the Commission and they must serve the request on the party to whom it is addressed.

Response to request

**71.** (1) A party that is served with a request must

(a) respond fully and adequately to each interrogatory; or

(b) if the party contends that an interrogatory is not relevant or that the information necessary to respond is not available, set out the reasons in support of that contention and, in the case of the unavailability of the information, provide any available information that they consider might be of assistance to the requesting party.

Filing and service

(2) The responding party must file a response with the Commission on or before the deadline established by the Commission and they must serve the response on all parties.

Request for further response

**72.** (1) A requesting party may, with the Commission's approval, request a further response to an interrogatory from the party to whom the initial interrogatory was addressed.

Content of request

(2) The requesting party must specify why a further response is necessary.

Filing and service

(3) The requesting party must file the further request with the Commission on or before the deadline established by the Commission and they must serve the request on the party to whom it is addressed.

Response

**73.** (1) A party that is served with a request for a further response must

(a) respond fully and adequately to each interrogatory; or

(b) if the party contends that the request for a further response is not relevant or that the information necessary to respond is not available, set out the reasons in support of that contention and, in the case of the unavailability of the information,

provide any available information that they consider might be of assistance to the party requesting the further response.

Filing and service

(2) The responding party must file a response with the Commission on or before the deadline established by the Commission and they must serve the response on the requesting party.

## PART 5

### REPEALS AND COMING INTO FORCE

#### REPEALS

**74. The *CRTC Rules of Procedure* are repealed.**

**75. The *CRTC Telecommunications Rules of Procedure* are repealed.**

#### COMING INTO FORCE

Registration

**76. These Rules come into force on the day on which they are registered.**

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· C.R.C., c. 375

· SOR/79-554

#### SCHEDULE 1 (Subsection 3(2))

#### APPLICATIONS GIVING RISE TO A PROCEEDING TO WHICH THE RULES DO NOT APPLY

##### BROADCASTING APPLICATIONS

1. Application for the extension of a deadline for the implementation of an authority to provide a new service.
2. Application for the extension of a deadline for the filing of documentation or other information in response to a requirement made by the Commission in a decision.
3. Application for changes to the authorized contours of over-the-air programming undertakings in cases where the revised contours do not enter a new market and the proposal will not result in a change of the operating class of a low-power station.
4. Application for changes to the authorized areas of licensed broadcasting distribution undertakings.
5. Application for amendments to conditions of licence to implement a regulatory policy of the Commission or to incorporate a standard condition.
6. The following applications, if they do not raise any concerns with respect to Commission policies or regulations or conditions of licence:
  - (a) share transfer application that involves an intracorporate reorganization;

- (b) share transfer application when effective control of the undertaking is passed between family members or to a family estate or succession;
- (c) share transfer application where effective control is subject to a temporary trust arrangement;
- (d) share transfer application where there is no change in the effective control of the undertaking;
- (e) radio undertaking share transfer application where the value of the transaction, as determined by the Commission, is less than \$15 million per station;
- (f) broadcasting distribution undertaking share transfer application where the change in effective control involves a single system or a group of systems serving fewer than 100,000 subscribers in total;
- (g) conventional television stations share transfer application where the value of the transaction, as determined by the Commission, is less than \$30 million per station;
- (h) discretionary television services share transfer application where the value of the transaction, as determined by the Commission, is less than \$15 million per service.

BROADCASTING AND TELECOMMUNICATIONS APPLICATIONS

- 7. Application for staff-assisted mediation.
- 8. Application for final offer arbitration.
- 9. Application for expedited hearing.

SCHEDULE 2  
(Section 43)

THE CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS  
COMMISSION

Re:

To:

You are required to attend before the Canadian Radio-television and Telecommunications Commission at a hearing to be heard at

on the day of 20 , at , and so on from day to day until the hearing is concluded, to give evidence on oath with respect to the matters in question in the proceeding and to produce on the date and at the time and place

*(set out, in detail, the documents to be produced)*

Dated this day of 20

Corporate Seal of THE CANADIAN RADIO-  
the Canadian Radio- TELEVISION AND TELE-  
television and Tele- COMMUNICATIONS  
communications COMMISSION

Commission by:

# **Appendix 2 to the Broadcasting and Telecom Notice of Consultation CRTC 2010-509**

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**Still Have Questions?**

## Introduction

### 1. Why New Rules of Procedure?: Convergence, Transparency and Predictability

The Commission has a broad mandate to regulate the broadcasting and telecommunications industries. It is charged with a complex mix of responsibilities ranging from licensing and rate regulation to dispute resolution and policy development across two industries and under both the *Telecommunications Act*<sup>1</sup> and the *Broadcasting Act*<sup>2</sup> (the Acts). The Commission's public proceedings allow the Commission to obtain evidence and arguments from parties and the general public to ensure that it fulfills its mandate in the public interest.

In proceedings which began before **[Insert coming into force date]**, the Commission's broadcasting proceedings were conducted pursuant to the *CRTC Rules of Procedure*<sup>3</sup> and its telecom proceedings pursuant to the *CRTC Telecommunications Rules of Procedure*.<sup>4</sup> Both of these rules were enacted in a different era, before the telecom and broadcasting industries began converging, before increased competition led to a significant amount of deregulation and before the Internet was invented.

In recognition of the significant changes in the industries it regulates and in the technology available to conduct its proceedings, the Commission initiated a public proceeding to establish the new *CRTC Rules of Practice and Procedure* (the Rules of Procedure).<sup>5</sup> The objectives of the Rules of Procedure are to:

- enable informed and effective public participation in Commission proceedings;
- ensure the efficient, transparent and predictable conduct of Commission proceedings;
- eliminate unnecessary costs and delays in the regulatory process; and
- provide a comprehensive set of rules applicable in all Commission proceedings while maintaining the flexibility necessary to address the specific circumstances of each proceeding.

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<sup>1</sup> S.C. 1993, c. 38

<sup>2</sup> S.C. 1991, c. 11

<sup>3</sup> C.R.C., c. 375

<sup>4</sup> SOR/79-544

<sup>5</sup> **[Insert citation.]**

## 2. Why Guidelines?: How This Document Can Help

This document is meant to help members of the industry and the general public understand the Rules of Procedure so that they can more effectively participate in Commission proceedings. This document will:

- explain the structure of the Rules of Procedure and when its different rules will apply;
- explain how the Rules of Procedure will generally be applied in different situations;
- provide, in one location, an up-to-date list of all Commission documents related to the Rules of Procedure; and
- explain how to get additional information on how to participate in Commission proceedings.

These Guidelines do not form a part of the Rules of Procedure and do not have the force of law. However, they are made pursuant to section 6 of the *Broadcasting Act*, section 58 of the *Telecommunications Act* and Rule 5 of the Rules of Procedure.

## Understanding the Rules of Procedure

### 1. When do the Rules of Procedure Apply?

#### a. Rules of Procedure Apply to Almost All Commission Proceedings

The Rules of Procedure apply to almost every proceeding before the Commission under the Acts (Rule 3). This is true whether a proceeding starts when someone files an application or a complaint or when the Commission asks for comments on a policy issue or begins a proceeding because the Governor-in-Counsel has asked it to do so. There are three exceptions to this rule.

#### b. Exception One: Unsolicited Telecommunications and the National Do Not Call List

The Rules of Procedure do not apply when the Commission is dealing with a violation of the Unsolicited Telecommunications Rules or the National Do Not Call List (Rule 3(2)). The *Telecommunications Act* provides a detailed procedure for these types of proceedings in sections 72.01 to 72.15. For more information you can read the Commission's fact sheet called "[How the Commission handles telemarketing complaints.](#)" which can be found on the Commission website.

#### c. Exception Two: Administrative Proceedings

The Rules of Procedure do not apply when the Commission makes a decision administratively (Rule 3(2)). In these cases, the Commission has determined that a public proceeding is not necessary as the issue is routine and does not have a significant effect on anyone but the applicant. Schedule 1 of the Rules of Procedure lists the types of applications that are treated administratively. For more information on how the

Commission handles these applications, you can read Broadcasting Information Bulletin 2010-XX [See **draft Information Bulletin, Appendix 3 to Notice of Consultation 2010-XXX**] and Broadcasting Circular [2008-8](#).

Even though a type of application is listed in Schedule 1, the Commission may determine that a specific application should be the subject of a public proceeding, whether because it raises general policy concerns or because it affects another person. In these circumstances, the Commission will either post the application on its website to be processed in a Part I Proceeding or issue a Notice of Consultation, as described below. In both cases, the Rules of Procedure will apply.

#### **d. Exception Three: Alternative Dispute Resolution**

The Rules of Procedure do not apply when a person asks the Commission to resolve a dispute using an alternative dispute resolution technique, whether staff assisted mediation, final offer arbitration or an expedited hearing. The Commission has established guidelines as to the procedure the Commission will generally adopt in these situations, which are found in Broadcasting and Telecom Information Bulletin [2009-38](#).

## **2. How to Read the Rules of Procedure**

### **a. The Four Parts of the Rules of Procedure**

The Rules of Procedure are separated into four parts.

Part I sets out the general rules that apply to all Commission proceedings, including the Commission's powers, how and when to file documents and the basic rules for the Commission's written proceedings and public hearings.

Parts II, III and IV set out the additional or modified rules that apply to certain types of proceedings. Specifically,

- Part II sets out rules that apply when a member of the public files a complaint against a broadcaster or a telecom provider;
- Part III sets out additional rules that apply when a person applies to the Commission for a new broadcasting licence or to renew an existing one or when a licensee is called to a show cause hearing by the Commission; and
- Part IV sets out additional rules that apply when the Commission reviews the ownership of telecom providers, when telecom providers apply to the Commission to approve tariffs, when parties apply to the Commission to award costs for their participation in a telecom proceeding or when the Commission permits parties to ask each other questions during a telecom proceeding.

One of the most important things to understand when reading the Rules of Procedure is the way that Part I and the other Parts interact. Because regulations are written so that

they are not repetitive, Parts II, III and IV only address what is different from the rules set out in Part I. Unless these Parts explicitly say so, the rules in Part I continue to apply.<sup>6</sup>

### **b. Documents That Are Incorporated by Reference**

In certain types of proceedings where very specific and detailed procedures are required, the Rules of Procedure themselves do not include all of the relevant rules. Instead, the Rules of Procedure point to another document which includes all the details. These documents are said to be “incorporated by reference” into the Rules of Procedure. This means that the procedural steps set out in these documents legally form part of the Rules of Procedure and are enforceable in the same way as the Rules of Procedure. Table 1 lists all of the documents that are incorporated by reference into the Rules of Procedure and the type of proceedings they apply to. These documents are periodically updated, so it is important to ensure that you are looking at the most recent version.

<b>Table 1: documents incorporated by reference</b>	
<b>Type of Proceeding</b>	<b>Document</b>
All Proceedings – How to File Documents – Epass and Application Forms	Broadcasting and Telecom Information Bulletin <a href="#">2010-453</a>
Telecom Transfer of Ownership and Control	Telecom Regulatory Policy <a href="#">2009-428</a>
Tariffs	Telecom Information Bulletin <a href="#">2010-455</a>

### **c. Information Bulletins That Accompany the Rules of Procedure**

In order to help participants in Commission proceedings, the Commission issues what are called “Information Bulletins” that provide greater detail or explanation of the Rules of Procedure (Rule 5). Table 2 sets out a complete list of all other Information Bulletins that relate to the Rules of Procedure.

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<sup>6</sup> For example, if you want to file an application for costs in a telecom proceeding, you might look first at Rule 64 (in Part IV), which talks specifically about this type of application. Based on this rule, you would know that your application must demonstrate that you meet the test for costs, identify the potential cost respondents, explain any differences between the final amount for costs requested and any interim costs that were awarded and attach the appropriate taxation forms. However, this rule only tells you what is unique about an application for costs. To understand all of the content that is required for your application to be complete, you must also look at Rule 20(2) (in Part I), which sets out the general rule for the content of applications in all Commission proceedings. Based on this rule, you would know that your application must also, among other things, include your name and address and the website or email address where individuals can request a copy of the application.

<b>Table 2: Information bulletins related to the rules</b>	
<b>Subject</b>	<b>Information Bulletin</b>
Information that can generally be designated confidential	Broadcasting and Telecom Information Bulletin 2010-XXX <sup>7</sup>
How to format interrogatories	Telecom Information Bulletin 2010-XXX <sup>8</sup>
Joint Supporting Interventions	Broadcasting Information Bulletin <a href="#">2010-28</a>

These Information Bulletins are not incorporated by reference into the Rules of Procedure. However, they provide important guidance to participants in Commission proceedings.

### **3. When the Rules of Procedure Are Changed**

Sometimes, it may be appropriate to change the rules for a specific proceeding. For example, it might make sense to have two rounds of submissions in a major policy proceeding or to extend the deadline for filing submissions to allow parties enough time to comment on new evidence. In determining what procedures are fair in any situation, the Commission will look at its own Rules of Procedure and at those of other administrative tribunals for examples of what is fair (Rule 4(2)).

#### **a. How the Commission Changes the Procedure**

The Commission will announce any changes to the rules for a particular proceeding in one of two ways:

- 1) the Commission will include these different rules in the Notice of Consultation that announces the proceeding or in an amendment; or
- 2) the Commission or Commission staff will issue a procedural letter which is then added to the public file of the proceeding.

Because the procedure can change even after a proceeding has started, it is important for everyone participating in a Commission proceeding to monitor the public file, available on the Commission's website, to see if amendments to the Notice of Consultation or procedural letters have been issued.<sup>9</sup>

As with the interaction between Part I and the other Parts of the Rules of Procedure described above, it is important to remember that documents that are incorporated by reference or changes to the procedure set out in the Notice of Consultation or a procedural letter only address what is unique or different in the proceeding. Unless they

<sup>7</sup> [See draft Information Bulletin, Appendix 4 to Notice of Consultation 2010-XXX.]

<sup>8</sup> [See draft Information Bulletin, Appendix 5 to Notice of Consultation 2010-XXX.]

<sup>9</sup> If you don't know how to find the public file on the Commission's website, you can contact the CRTC at 1-877-249-CRTC (2782).

specifically change a given rule from the Rules of Procedure applicable to that type of proceeding, that rule will continue to apply.

### **b. Asking the Commission to Change the Procedure**

The Rules of Procedure allow an interested person<sup>10</sup> to request that the Commission exercise a power under the Rules of Procedure or change the Rules of Procedure for a specific proceeding, generally called a procedural request (Rule 4(1)).

These procedural requests can be minor, like a request for an extra day or two to file a submission,<sup>11</sup> or they can be relatively complex, like a request to hold part of a hearing *in camera* or to adjourn a hearing. However, no matter what type of procedural request you are making, there are a certain number of steps you should follow:

- put your procedural request in writing, addressed to the Secretary General;
- provide reasons for why you are asking for the change and address how the requested change might affect other persons; and
- make your request as soon as possible.

## **4. How do Commission Proceedings Generally Work?**

The Commission conducts a number of different types of proceedings to which the Rules of Procedure apply.

### **a. Paper Proceedings**

The majority of Commission proceedings happen entirely on paper. For example, Part I of the Rules of Procedure provides a basic structure for a paper proceeding that is initiated by an applicant who files an application with the Commission and serves any respondents (Rule 20). The Commission posts these applications on its website (Rule 21). The public is given an opportunity to file submissions as Interveners (Rule 24) or Respondents<sup>12</sup> (Rule 23) within 30 days, and the applicant is given an additional 10 days to respond (Rule 25). The Commission examines all of the written submissions and issues a decision. These proceedings are generally referred to as “Part I Proceedings.” Other types of proceedings also generally happen entirely on paper, including cost applications (see section 10 below) and tariff applications (see Rule 59 and Telecom Info Bulletin [2010-455](#)).

### **b. Public Hearings**

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<sup>10</sup> For the difference between an interested person and a party, see section 5(a) of this document.

<sup>11</sup> Requests for an extension of time to file a document are amongst the most common procedural requests that the Commission receives. For a list of elements the Commission will generally consider when deciding whether to grant a request for an extension, see section 6(c)(iv) below. Your letter should address these elements.

<sup>12</sup> To understand who is an intervener or respondent, see sections 5(b)(ii) and (iii) of this document.

In more complicated proceedings or where the Acts require it, the Commission will hold a Public Hearing and the Chair of the Commission will appoint a Panel of Commissioners to hear the matter.

The Commission may decide to hold a Public Hearing to, among other things:

- decide to issue or renew a broadcasting licence (Rule 51),
- consider issuing a mandatory order,
- consider a policy issue,
- prepare a report requested by the Governor in Council,
- consider an application that has been the subject of a Part I Proceeding where the interventions have raised issues that warrant a hearing.

Public Hearings always begin when the Commission issues a Notice of Consultation, which will set out details of the procedure, including the deadlines for parties to file written submissions (Rule 33).

After reviewing the written submissions, the Panel will sometimes decide that oral testimony is not necessary and will either decide the matter on the basis of the existing written submissions or ask for additional written submissions on the matter (Rule 9(e)). This type of proceeding, generally referred to as a “Non-Appearing” item on the hearing agenda, occurs almost exclusively in broadcasting.

In all other circumstances, parties to the Public Hearing who have asked to appear and whom the Panel would like to hear from will be asked to appear, either in person or by videoconference, to provide evidence and answer questions from the Panel members (Rule 35 (1)).

In certain telecom proceedings, parties who appear must also answer questions posed by other parties, called “cross-examination,” although this happens in a small minority of Commission proceedings.

### **c. Complaints by Members of the Public**

If the matter is a complaint filed by a member of the public against a telecom provider or a broadcaster, these proceedings follow a special procedure, which you can read about here. **[The Commission’s How to File a Complaint Fact Sheet will be revised to reflect the new Rules. For example, the explanation of how to file a complaint will list who is a ‘designated employee’ to which a member of the public can address an urgent, *ex parte* telecommunications complaint.]** These Guidelines do not provide details about this type of proceeding.

#### **d. Ownership Reviews**

Finally, applications for the approval of an ownership transaction in broadcasting or a review of the Canadian ownership of a telecom company follow a number of different routes. Certain of these applications are reviewed without public input. The Commission sends the applicant a letter stating whether the application has been approved and may publish the application and its decision where it is in the public interest to do so. In other situations, the Commission will begin a public process, either a paper proceeding or a public hearing, by issuing a Notice of Consultation. For more information on ownership transactions, see Broadcasting Circular 2008-8 and Telecom Regulatory Policy 2009-428 (Rule 58).

### **5. The Different Ways a Person Can Participate in a Proceeding**

#### **a. What Does It Mean to Be a Party in a Commission Proceeding?**

Any person who is interested in a Commission proceeding is called an ‘Interested Person.’ However, to become a formal party to the Commission proceeding, an interested person must file a written submission as an Applicant, an Intervener or a Respondent (Rule 1).<sup>13</sup>

The Rules of Procedure give all parties, among other things:

- the right to be served with certain documents filed in the proceeding (e.g. Rule 59(2)) and the responsibility to serve certain documents on others (e.g. Rule 20(1)(b));
- the ability to designate information as confidential (Rule 29), request that a hearing be held *in camera* (Rule 37) and request that information designated as confidential be disclosed by the Commission (Rule 31);
- the ability to request that documents be produced (Rule 27);
- the requirement to respond to Commission questions (Rule 26) and appear at the public hearing if requested (Rules 26(b) and 35);
- the ability to ask questions (called interrogatories) of other parties in telecom proceedings where the Commission allows for this process (Rule 70); and
- the ability, if eligible, to apply for costs for participation in telecom proceedings (Rules 58 and 63).

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<sup>13</sup> Note that these Guidelines do not address the complaints process.

## **b. The Three Different Types of Parties**

### **i. Applicant**

An applicant is someone who asks the Commission to make a decision, whether on a matter specific to its circumstances, like a new licence or a tariff, or on a more general policy issue.

In proceedings initiated by the Commission, such as policy proceedings, all parties are Interveners. However, a broadcasting licensee that is called to a Public Hearing to show cause why a certain action should not be taken against it is treated like an applicant for the purposes of the Rules of Procedure (Rule 54).

An applicant initiates a proceeding and is responsible for ensuring that its application includes all of the information the Commission will need to make an informed decision (Rule 20). The applicant must ensure that it has provided notice to persons who might be affected by the application (Rule 20(1)(b)). The applicant can reply to the submissions filed by other parties (Rule 25) and will appear both first and last at any Public Hearing (Rule 39).

### **ii. Respondent**

A respondent is a person who is “adverse in interest” to the applicant (Rule 1). This concept includes three elements:

1. There must be an applicant for there to be a respondent. Therefore, there are no respondents in proceedings initiated by the Commission, such as policy proceedings, where all parties are interveners.
2. A respondent is a person with an interest in the outcome of the proceeding. This interest must be specific to that person and not only an interest as a general member of the public. This interest must also be direct. It is not enough that a decision could set an example that might be applied in a future decision concerning the person; nor is it enough that the person could hypothetically be affected by the decision.
3. A respondent’s interest must be adverse (opposite) to that of the applicant. A person whose interest is the same as that of an applicant or a person who would benefit if the application is approved is not a respondent. Instead, a respondent is someone whose interest would be harmed if the application were granted.

Determining who is a respondent to a particular application depends on the specific facts of the application. However, there are certain types of persons who are generally considered respondents in Commission proceedings. For example, for an application for the issuance or amendment of a radio licence, a low-power radio station in the market that would suffer interference or be required to vacate its frequency if the application is approved would usually be a respondent. Also, in a review and vary application in

telecom, all parties to the original proceeding leading to the decision under review are generally considered respondents. If you are uncertain whether you or another person is a respondent, you may contact CRTC Client Services at 1-877-249-CRTC (2782) for guidance.

Since the resulting Commission decision could directly and negatively affect respondents, they benefit from special protections under the Rules of Procedure. In particular, a respondent must be given notice that the application has been filed by being served with the application (Rule 20(1)(b)).

### **iii. Intervener**

An intervener is an interested person who is not an applicant or a respondent but who wishes to be a party to the proceeding. In a proceeding initiated by the Commission where there is no applicant, including policy proceedings, all parties will be interveners.

Interveners have all the rights and responsibilities of a party discussed above.

### **c. Joint Supporting Interventions**

In broadcasting proceedings, the Commission has developed a way for applicants to organize campaigns in support of their applications. Applicants collect written interventions from persons who support their application and file all of the interventions in one document, called a “joint supporting intervention,” by the deadline for filing an intervention. For details on how this process works, see Broadcasting Information Bulletin [2010-28](#).

### **d. Online Consultations**

In certain policy proceedings the Commission will create an online forum where members of the general public can participate in discussions on the topic being reviewed. The creation of these forums and the details on how to participate are announced in the Notice of Consultation. The transcript of these discussions is placed on the public record of the proceeding once the online consultation has finished.

Persons who participate in these online forums are not parties to the proceeding, since only their username appears on the public record. Instead, the transcript of the discussions stands as a whole as evidence, not of one individual’s opinion, but of the general opinion of a self-selecting sample of the public.

## **6. Filing Written Submissions as Part of a Proceeding**

Over 1000 documents are filed in Commission proceedings in a typical week. When a highly publicized matter is before the Commission, this can grow to over 10,000 documents a week. These documents include everything from applications and interventions to procedural requests and responses to Commission questions.

The best way to ensure that your document is accepted by the Commission and processed quickly and accurately is to ensure that you:

- include all of the required information;
- serve anyone you are required to serve;
- file the document before the deadline; and
- use the correct method to file the document.

## **a. The Content of Documents**

The Rules of Procedure set out specific rules for the content of Applications (Rule 20(2)), Answers (Rule 23(2)), Interventions (Rule 24(2)) and Replies (Rule 25(2)), many of which are common across all four types of submissions. These include the requirement to clearly state what you want the Commission to do (e.g. approve or deny an application or adopt a policy) and to provide all the relevant facts that support your position. The Rules of Procedure also require, among other things, specific additional content for cost applications (Rules 58 and 63) and tariff applications ([Telecom Information Bulletin 2010-455](#)).

### **i. Provide a Cover Letter**

When filing documents with the Commission, it is best practice to include a cover letter, addressed to the Secretary General, CRTC, which:

- clearly identifies the proceeding the document relates to, if available (Application No., Notice of Consultation No., etc.);
- includes your contact information and that of any designated representative;
- indicates whether you are an Applicant, Respondent or Intervener;
- indicates whether you wish to appear at the hearing (if applicable) and if so, whether you wish to appear in person or by videoconference and whether you have any special needs;
- lists all of the documents attached to your letter;
- lists all persons you have served with the document, including how they were served and the contact information you used (usually email); and
- addresses any procedural matters you want to raise.<sup>14</sup>

Where the content described here is found in an attached application form, it does not need to be repeated in a cover letter. Moreover, if you are submitting a document using

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<sup>14</sup> For example, the cover letter is the proper place to provide an explanation if you are filing the document past a deadline or to request that documents already on file be provided in an alternative format.

the webform, this information can be placed in the textbox rather than in a separate attached letter.

You may appoint a designated representative to represent you in a Commission proceeding. This may be your lawyer or another sort of agent. Once you have designated a representative, the Commission and parties to the proceeding will communicate with your representative directly and you will not receive documents except through your representative.

## **ii. Filing Evidence**

Remember that while the Commission is not a court, it does make findings of fact based on the evidence before it. To the extent that you can provide supporting evidence of your factual statements, you should do so by attaching it as a separate document or providing a reference to where the information can be found. This includes full citations of any books or studies that you cite.

If you have commissioned a survey or study, you should provide not only the conclusions, but also the methodology used, including the questions asked.

Also, to the extent that you disagree with a statement made by another party and you have an opportunity to reply in writing or at the hearing (if applicable), you should clearly deny the fact and provide any relevant evidence that supports your claim.

## **iii. Format of Documents**

Documents should be divided into parts with consecutively numbered paragraphs. If the document is longer than 10 pages, you should provide an executive summary, as well as a table of contents.

If you are sending your document electronically or by fax, you should include the phrase “\*\*\*End of Document\*\*\*” after the last paragraph to confirm that the document has not been damaged during transmission.

## **iv. Language of Documents**

Documents can be filed with the Commission in either official language (English or French).

If you wish to provide a document in a third language, you should provide a translation of the document for the record.

## **v. Additional Rules for Applications**

In addition to these general rules, if you are filing an application, you must use an application form if one is available. The Commission lists all forms for broadcasting and telecom applications in Broadcasting and Telecom Information Bulletin [2010-453](#).

These forms will ensure that you have provided all of the relevant information that the Commission generally needs to assess your type of application. If one or more of the questions on the application form remains unanswered, the Commission will return an

application with a cover letter explaining which questions must be completed before the application can be re-filed and processed.

If there is no form for your type of application, your application must include all of the information discussed above, as well as the relevant statutory or regulatory provisions, the decision you want the Commission to make and any proposed changes to the normal procedure that you think the Commission should make.

It is also important to remember that no matter what type of application you are filing, it will be reviewed not only in light of the Acts and their regulations, but also in light of the Commission's policies. Therefore, you must research any policies that might apply to your type of application and explain how the application addresses the policy. This is especially true where a policy sets out a test that is generally followed (for example, the test for a review and vary application or the rules for common ownership). If your application proposes something that is not in line with the policy, you must explain why the policy is not appropriate in your circumstances.

## b. Serving Documents

### i. Who to Serve

Generally speaking, the Commission will post all documents filed with the Commission on its website as soon as practicable. It is your responsibility to follow the progress of a proceeding and to be aware of the documents that have been posted. However, to ensure that those most affected by a document are aware that it has been filed, the Commission also requires you to serve certain documents on certain people. Table 3 lists those who need to be served with these documents. The Commission may also direct that you serve other persons in the Notice of Consultation, in a policy, or in a procedural direction.

<b>TABLE 3: WHO TO SERVE</b>		
Type of Document	Who to Serve	Rule
Application	Respondents	20(1)(b)
Answer	Applicant and respondents	23(2)(g)
Intervention	Applicant	24(2)(k)
Reply	Respondents and interveners that the applicant is replying to	25(2)(e)
Request for production of a document or disclosure of information designated as confidential	The person being asked to produce or disclose the information	27(2) & 31(2)
Reply to request for disclosure	Requesting party	31(3)
Application for interim or final costs and replies	All other parties to the proceeding	59(2), 60, 64(3), & 65
Interrogatories (questions	The person being asked the question	70(2) &

of other parties in a telecom proceeding) and requests for further information		72(2)
Response to interrogatory	All parties to the proceeding (first round) or the person requesting the additional information (second round)	71(2) & 73(2)
Procedural requests	All parties to the proceeding	Policy

## ii. What Contact Information to Use

You may serve a person in person or by fax, courier, mail or email (Rule 17). If a person is already a party to the proceeding, you must use the contact information provided in that party's initial submission. If the person has appointed a designated representative, you should serve the document on that representative.

If a licensee or a telecommunications service provider (TSP) has not yet provided contact information on the file of the proceeding,<sup>15</sup> you can rely on the latest information provided to the Commission in the company's annual returns. A regulated company that does not keep its contact information up to date may miss out on being served documents. If you need to serve a person other than a licensee or a TSP who has not yet filed contact information in the proceeding, you can use his or her last known address.

## iii. When to Serve

You must serve a person on or before the day you file the document with the Commission (Rule 16). The cover letter must include a list of the people you served or if you are using the web form, you must click the box that says you have served the applicant (Rules 20(1)(c), 23(2)(f), 24(2)(j) and 25(2)(d)).

## iv. Proof of Service

If you serve the document electronically (for example by fax or email), you must keep proof that the document was sent and that it was received until 30 days after publication of the final decision in the proceeding (Rule 17(c)).

The Commission can ask you to provide proof that you served the document, no matter how the document was sent (Rule 19(1)). This could include a fax confirmation page, the signature of the recipient on a courier slip or an email from the recipient confirming receipt. If you have no other proof, you can provide an affidavit swearing that the person was served (Rule 19(2)).<sup>16</sup>

<sup>15</sup> For example, you are an applicant or the Commission has issued a Notice of Consultation but persons have not yet filed their interventions.

<sup>16</sup> This affidavit must indicate the name, address and telephone number of the person who sent the document, the date it was sent and received and if it was sent by fax, the number of pages and the name and fax number of the person who sent it.

## c. When to File Documents

### i. Deadlines for Certain Applications

There are very few instances where an applicant will have a deadline for filing an application. Table 4 sets out the most common of these deadlines.

Table 4: deadlines to file applications		
Type of Application	Deadline	Rule
Application for final costs in a Telecom proceeding	30 days after the deadline for final representations in the proceeding	65
Tariff Application	30 days before proposed date of coming into force	59 & Telecom Information Bulletin <a href="#">2010-455</a>
Application for the Commission to review and vary a Telecom Decision	Within 90 days after the date the decision is published	69

### ii. Other Deadlines

If a Notice of Consultation has been published in a proceeding, it will set out the dates when documents must be filed. In a Part I Proceeding, Respondents and Interveners must file their written submissions within 30 days after the application is posted on the Commission website (Rules 23(1) and 24(1)), and the applicant may file a reply within an additional 10 days (Rule 25(1)).

As mentioned above, the Commission may change the deadlines for filing documents in a proceeding. Therefore, don't forget to monitor the file of the proceeding on the CRTC website or at the offices of the CRTC to see if the Commission has issued a procedural letter or an amendment to any Notice of Consultation that has been issued.

### iii. Calculating a Deadline

Deadlines at the Commission are generally stated as occurring "within" a certain number of days after an event. In calculating the deadline (Rule 11), you start with the day after the listed event, and you count all calendar days except days that fall in the Holiday Break. The Holiday Break includes 21 December to 7 January of each year. If the resulting date falls on a weekend or a holiday, the document may be filed on the next working day (Rule 14(2)). Table 5 lists the holidays observed by the Commission that fall outside the Holiday Break.

<b>Table 5: holidays</b>
Good Friday
Easter Monday
Victoria Day
St-Jean Baptiste Day
Canada Day
Labour Day
Thanksgiving
Remembrance Day

For example, the deadline for filing an intervention in a Part I Proceeding is within 30 days after the application is posted on the Commission's website. If the application were posted on 1 September 2010, you would count 30 days starting on the next day, which makes the deadline 1 October 2010. However, if the application were filed on 2 September 2010, the deadline would be 2 October 2010, which is a Saturday. In this case, you could file the intervention on the next working day (i.e. Monday, 4 October 2010). Or, if the application were posted on 1 December 2010, you would count 30 days starting on the next day, but you would skip the days 21 December to 7 January (the Holiday Break). This would make the deadline 17 January 2011, and since this falls on a Sunday, you would have until 18 January to file your document.

There are some exceptions to these rules. For example, the deadlines for filing documents in proceedings for the destandardization or withdrawal of a tariff in Telecom (set out in Telecom Information Bulletin [2010-455](#)) are business days. This means that you don't count Saturdays, Sundays, holidays or the Holiday Break when calculating the deadline.

For a document to be filed on a specific day, the Commission must receive the document by 11:59 p.m. local time in Gatineau where the CRTC headquarters are located (Rules 11(1)(b) and 14).

#### **iv. What to Do if You Think You Will Miss a Deadline**

If you think that you will not be able to file a document by the deadline, you should file a written request for an extension with the Commission. As with all procedural requests, you should file your request in writing, with reasons, as soon as you are aware that you need additional time.

The Commission will grant a request for an extension of time only in exceptional circumstances. In assessing whether an extension will be granted, the Commission will generally consider:

- whether the extension request was made as early in the process as possible;
- whether the reason for the extension request was outside of the control of the person making the request;

- whether granting the request will allow the Commission to have a better record; and
- whether granting the request will ensure that the party asking for the extension and all other parties are treated fairly.

## d. How to File Documents

### i. Applications

Applicants are required to file their applications by E-pass, which is a secure online network administered by the Government of Canada (Rule 12(1)(a) and Broadcasting and Telecom Information Bulletin [2010-453](#)). In order to file documents using E-pass, you must have an E-pass ID. The Commission has a page on its website entitled "[Frequently asked questions about E-pass](#)" that provides more explanation.

Remember to keep the E-pass confirmation number as proof that the application was successfully received by the Commission until 30 days after the final decision in the proceeding is published (Rule 12(3)).

### ii. Other Documents

With all other documents, whether responses and interventions or procedural requests, you can choose one of a number of different ways to file. Table 6 sets out all the different ways you can file a document and any special rules that apply (Rule 12(1)(b) and (2)). If you file your document electronically, you must keep proof that the document was received by the Commission until 30 days after the final decision in the proceeding is published (Rule 12(3)).

<b>Method</b>	<b>Rules that apply</b>	<b>Proof that it was filed</b>
E-Pass	More info <a href="#">here</a>	E-pass confirmation number
Online Form	Found <a href="#">here</a>	Confirmation page (step 6)
Fax	Fax: 819-994-0218	Fax confirmation page
Mail	Secretary General, CRTC Ottawa, ON K1A 0N2	affidavit
By Hand	To the office of the Secretary General or to the Hearing Secretary at an oral hearing	affidavit

## 7. Confidential Information

### a. The Commission's Proceedings Are Public – Confidentiality Is the Exception

The Commission's proceedings are designed to allow members of the public to provide input so that the Commission can make better, more informed decisions. As a result, the general rule is that all information filed with the Commission is placed on the public record and can be reviewed by all parties and members of the public.

However, it is also true that the Commission often needs detailed information from the companies it regulates in order to make an informed decision. This information can be commercially sensitive, especially as the environment in which the companies operate becomes more competitive. For example, in order for the Commission to determine whether the price that a telephone company wants to charge its customers is reasonable, the Commission must know how much it costs the company to provide that service. However, that information tells the company's competitors the lowest price that the regulated company can charge, which could lead to anti-competitive behaviour. As a result, the Commission will accept certain information as confidential.

The *Telecommunications Act* has specific rules about how confidential information is to be treated by the Commission. The *Broadcasting Act* does not have similar rules. Instead, the Commission has relied, over the years, on its rules of procedure and information bulletins (what used to be called 'circulars') to set out its rules on confidentiality.

The Rules of Procedure provide for one set of confidentiality rules which apply in both broadcasting and telecom proceedings.<sup>17</sup>

### b. Filing Confidential Information

Rules 28 to 32 provide two steps for filing confidential information.

First, the information is designated confidential.

Second, if another party or the Commission believes that the information should be disclosed, the Commission conducts a short process to get arguments from both sides and then decides whether the information should be disclosed.

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<sup>17</sup> The Commission also receives information outside the context of a proceeding which persons may wish to have treated on a confidential basis. The most common example is information filed by a broadcasting licensee or TSP as part of their annual returns. As there is no proceeding ongoing, the Rules of Procedure do not apply in these circumstances.

## **i. What Information Can Be Designated Confidential?**

A party filing information can ‘designate’ certain types of information as confidential at the time it is filed with the Commission (Rule 29). This information must fall into one of the following categories:

- (a) Information that is a trade secret;
- (b) Financial, commercial, scientific or technical information that is confidential and that is treated consistently in a confidential manner by the person who submitted it; or
- (c) Information the disclosure of which could reasonably be expected
  - (i) to result in material financial loss or gain to any person;
  - (ii) to prejudice the competitive position of any person; or
  - (iii) to affect contractual or other negotiations of any person.

The determination as to whether information falls into one of these categories depends on the specific facts of each case. However, because the Commission conducts similar proceedings with similar parties on a regular basis, it is possible to have a good idea of the types of information that the Commission will generally agree can be designated confidential. In order to provide certainty and transparency, the Commission has created a list of such information, which can be found in Broadcasting and Telecom Information Bulletin 2010-XX [See **draft information bulletin, Appendix 4 to Notice of Consultation 2010-XXX**]. Parties must remember that this list is a guideline only and that the specific circumstances of any particular case may mean that the information will be treated differently.

## **ii. How to File Information Designated as Confidential**

At the time that the party files the information it designates as confidential, it must provide an abridged version of the document along with a cover letter explaining how the information falls into a category of information that can be designated confidential and why making the information public is not in the public interest (Rule 30). The confidential information must be filed separately and must be marked ‘CONFIDENTIAL’ on each page. If the document is filed electronically, each file containing confidential information must include ‘confidential’ in the file name.

## **iii. How the Commission Treats Information Designated as Confidential**

The Commission will place both the cover letter and the abridged version of the document on the public record, so that all parties and the public can see what type of

information was designated confidential and the reasons for this designation. At this point, the information becomes “Designated Information” and the Commission will not disclose the information unless it determines either that the information:

- does not properly fall within one of the categories of information that can be designated confidential; or
- was properly designated confidential but the specific direct harm that would result from the disclosure does not outweigh the public interest in having the information on the public record of the proceeding.

### **c. Requesting Disclosure of Information Designated as Confidential**

If the Commission or another party believes that the designated information should be disclosed for one of these two reasons, the Rules of Procedure set out a process to be followed.

The Commission can request disclosure by sending the request directly to the party that designated the information as confidential (Rule 31(4)). A party must file its request with the Commission and serve the person who designated the information as confidential. The request must explain why the Commission or the party believes it would be in the public interest to disclose the information (Rule 31(1) and (2)).

The party who filed the designated information can file a reply with the Commission within 10 days, serving it on any party who requested disclosure of the designated information (Rules 31(3) and (4)).

At this point, the Commission will decide whether the information should be disclosed (Rule 32(1)). In broadcasting, the party who filed the information may choose to confirm that it continues to oppose disclosure of the information. The Commission may accept this position and not disclose the information. However, in this circumstance, the information is no longer admissible as evidence and the Commission will not consider it in making its decision (Rule 32(2)). If the party is an applicant, they must accept that, as a result, the Commission may find that it does not have enough information on the record to approve the application.

## **8. Building the Written Record of the Proceeding**

The Rules of Procedure allow for both the Commission and parties to request additional information from parties in order to ensure that the Commission has all of the information that it needs to make an informed decision. As with all other documents filed during a proceeding, the rules set out in Part I of the Rules of Procedure, including those related to confidentiality, continue to apply.

## **a. Additional Information Requested by the Commission**

The Commission may request any party to file additional information in writing where clarification is required (Rule 26(1)(a)). In the past, these have been called interrogatories in telecom proceedings and deficiency questions in broadcasting. These requests for additional information or clarification are used sparingly by the Commission. In particular, they do not replace an applicant's obligation to provide all relevant information in its application. The Commission will not ask for information that was already requested as part of an application form or in a Notice of Consultation. In addition, the Commission can request that a representative file proof of its authority to act on behalf of a party (Rule 26(2)).

A request for additional information will generally be made in the form of a staff letter, which will set out a deadline for when the additional information must be filed and, if necessary, amendments to the deadlines for the filing of answers, interventions, comments and replies.

## **b. Production of Documents Referred to on the Record**

Where a party refers to a document in a submission but does not provide a copy of the document as an attachment or a link to a website where it can be viewed free of charge, another party can request to review the document and make copies (Rule 27). This most often applies where a party refers to a public opinion poll or study without providing the particulars. If you want to request production of a document, you must file the request with the Commission and serve the person you are requesting to produce the document. The party will then have 10 days to produce the document or it cannot rely on it (Rule 27(3)).

## **c. Interrogatories in Telecom Proceedings**

In some telecom proceedings, the Commission will provide parties with the opportunity to ask each other questions in writing, called interrogatories (Rule 70(1)). The Commission will announce this fact in the Notice of Consultation for the proceeding, which will indicate the deadlines for each step of the process.

### **i. The Steps Involved When There are Interrogatories**

This process generally involves two steps.

- **The Questions:** In this first step, the parties ask and answer questions. Parties may designate information provided in the responses confidential in accordance with the normal rules. Parties may also argue that the question is not relevant to the proceeding or that the information is not available (Rules 70 & 71).

- **Further information:** After reviewing the answers, parties can request that further information be placed on the public record, whether by requesting disclosure of information designated as confidential (Rule 31(1)) or by arguing that a relevant question was not adequately answered (Rule 72). The party who provided the answer then has an opportunity to reply to this request (Rules 31(3) & 73(1)). Based on this information, the Commission will determine whether information should be disclosed or a further response filed.

In some cases, parties will be provided with the opportunity to ask a second round of questions, which are again subject to requests for further information and disclosure.

## ii. The Form of Interrogatories

Over the years, the Commission has developed a very specific format to be used when asking and responding to questions, as well as for citing interrogatory responses in submissions. It is very important that parties follow this format so that all parties and the Commissioners can easily determine where to find the information that is being referred to in a submission or oral argument.

The details of this format are found in Telecom Information Bulletin 2010-XXX [see **Draft Information Bulletin, Appendix 5 of Notice of Consultation 2010-XXX**].

## d. Document in Alternative Formats

The Commission can request that a party file a document in an alternative format,<sup>18</sup> either on its own initiative or at the request of a person with a disability. The person with a disability must file his or her request with the Commission and serve the party being asked to file the document in an alternative format. That party will have 10 days to either file the document in the requested alternative format or to file a response explaining why the request is not reasonable and proposing an alternative (Rule 13).

The Commission will only require a party to file a document in an alternative format where it is reasonable to do so. What is reasonable will depend on the particular situation, including the cost of creating the document in the alternative format and the nature of the interest in the proceeding of the person requesting the information.

## 9. The Commission's Public Hearings

The Commission generally holds two types of public hearings: operational hearings, where the Commission considers one or more specific applications, and policy hearings, where the Commission considers a general policy question. In both cases, the Rules of Procedure set out general rules that will be followed.

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<sup>18</sup> An alternative format can include brail, large print or an electronic version.

## a. How to Find Out About Hearings

### i. The Notice of Consultation

All public hearings will be announced by a Notice of Consultation (Rule 33), which is where you can find all of the relevant information for the hearing, including:

- when and where the hearing will be held (Rules 33(2)(b) & (c));
- what applications or policy questions the Commission will consider (Rule 33(2)(a));
- the deadline for filing submissions (Rule 33(2)(a));
- whether there will be a written reply phase after the hearing and what the deadline will be; and
- any special rules for the hearing, including whether there will be interrogatories, cross-examination on any special requirements for regulated companies to provide notice of the hearing.

This Notice of Consultation will be posted on the Commission’s website (Rule 33(1)).

All broadcasting public hearings open for comment are listed on the Commission’s website [here](#) and all telecom notices of consultation are listed [here](#).

In certain broadcasting matters, notice of the hearing will also be published in the *Canada Gazette* and in local newspapers.<sup>19</sup>

To keep up to date on what public hearings the Commission has announced, you can review the Notices of Consultation under the heading “Today’s Releases” on the Commission’s website.

### ii. Notice by Applicants

The Rules of Procedure require applicants to provide notice of the Commission’s public hearings where their applications will be considered by posting a notice of the hearing (either the entire Notice of Consultation or a summary with a link to the Notice on the Commission’s website) on their website (Rule 34(1)(a)).

If they don’t have a website or don’t have the capacity to add the notice to their site, they must provide an email address where someone can write to request an electronic copy of the application (Rule 20(2)(b)).

In addition, the Commission may require these applicants to provide notice by broadcasting a notice over the air, serving certain people or by any other means that the Commission specifies in the Notice of Consultation (Rule 34(1)(b)).

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<sup>19</sup> Section 19 of the *Broadcasting Act* requires that the Commission cause notice of its broadcasting public hearings to be published in the *Canada Gazette* and in local newspapers.

### **iii. Notice by Regulated Companies in Policy Proceedings**

Broadcasting licensees and TSPs may be required to provide the same kind of notice as an applicant described above when the Commission conducts a hearing to consider a policy issue which relates to their regulated activities (Rule 34(2)). The Commission would indicate who is required to give notice and the form of that notice in the Notice of Consultation.

#### **b. Pre-Hearing Conferences**

In certain public hearings, the Commission may ask parties to appear before the hearing at what is called a “Preparatory Conference.” (Rule 36) The purpose of these meetings is to discuss a number of preliminary or procedural issues in advance of the hearing to ensure that the hearing itself can proceed as efficiently as possible.

#### **c. How to Appear at a Hearing**

##### **i. Who Can Appear?**

Applicants must always be available to appear at the public hearing if requested. Respondents and Interveners are not required to appear, but may request to do so in their submission.

The Commission will let you know if you are asked to appear at least 10 days before the hearing (Rule 35(1)). You will be required to confirm your attendance at least 7 days in advance and, where relevant, to provide a list of all persons who will appear on behalf of you or your company (Rule 35(2)).

##### **ii. No New Evidence**

The Commission has a strict rule that parties cannot introduce new evidence at the hearing (Rule 40). However, in exceptional circumstances and where it would not be unfair to other parties, the Commission may grant permission to introduce new evidence at the request of a party.

Therefore, it is important that you take the time to provide all of the relevant facts and arguments in your written submission. At the hearing, you will be able to restate your position in light of all of the information on the record and what the people appearing before you have said.

##### **iii. Appearing by Videoconference**

If you live far away from where the hearing is being held, you can ask the Commission to allow you to appear by videoconference from one of the Commission’s local offices

(Rule 35(1)).<sup>20</sup> However, applicants and regulated companies that are making substantial submissions in a hearing will generally be required to appear in person.

#### **iv. Do you have special needs?**

If you require accommodation to be able to appear, such as sign language interpretation or wheelchair access, you should make this clear when you request to appear (Rule 24(2)(h)). The Commission will take all reasonable steps to accommodate your situation.

#### **v. The Order of Appearance**

In operational hearings, the applicant will appear first, followed by any respondents and interveners and the applicant in reply (Rule 39).<sup>21</sup>

In a policy hearing, where everyone is an intervener, the Commission will decide how the parties will appear.

In order to be efficient, the Commission may choose to have parties appear as part of a Panel and may require parties with similar arguments to make a combined presentation. If you will be required to appear as part of a Panel or make a combined presentation with another party, you will be advised of this in advance of the hearing when you are invited to appear.

#### **d. In Camera Hearings**

##### **i. The Commission's Hearings Are Public – *In Camera* Is an Exception**

As with paper proceedings, the Commission's hearings are usually open to the public. When parties have designated information as confidential as part of a proceeding, Commissioners will usually ask general questions without referring to the designated information. However, Commissioners may refer to the confidential record in their questions without disclosing the substance of the confidential information.

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<sup>20</sup> The Commission has regional offices in:

- Dartmouth, Nova Scotia;
- Montréal, Quebec;
- Toronto, Ontario;
- Winnipeg, Manitoba;
- Regina, Saskatchewan;
- Edmonton, Alberta; and
- Vancouver, British Columbia.

<sup>21</sup> There is a different order of appearance for competitive licensing hearings, which is discussed in section 9(e).

There may be instances where the answer to a Commission question is confidential. In these cases, the Commission may request that the party file the response in writing in confidence.

Sometimes it is necessary for Commissioners to question a party about designated information in more detail, so that it is not possible to have a useful conversation in public without explicitly referring to the confidential information. In these circumstances, the Commission may choose to close its hearing or a portion of its hearing to the public, which is called an *in camera* hearing (Rule 37(1)).

## **ii. How *In Camera* Hearings Work**

When the Commission has decided to go *in camera*, the Chair of the Panel will make an announcement asking everyone but the party, the party's representatives, Commissioners, Commission staff and the hearing translators, technicians, and stenographers to leave the room. All other parties, the media and the public are excluded from the room and the live feed of the hearing on the Commission's website is turned off (Rule 37(2)).

Transcripts of the *in camera* session are made, but they are confidential and are provided only to those who were in the hearing room (Rule 37(3)).

When the Commission has finished asking its questions regarding confidential information, the hearing will resume in public.

## **iii. What is Placed on the Public Record About the *In Camera* Session**

Once the hearing has resumed in public, the Commission will give the party who appeared during the *in camera* portion of the hearing a deadline to file an abridged version of the transcript, following the same process for designating information as confidential as would apply to any other document filed with the Commission (Rule 38). This means that the party must file an abridged copy of the transcript, along with a cover letter explaining what information has been abridged and the reasons for the designation.

Generally speaking, where information has already been designated as confidential in the proceeding, the party will not need to provide additional reasons but can simply indicate when it was originally filed with the Commission (Rule 38(b)).

The abridged version of the transcript and the cover letter designating the information as confidential will be added to the public record of the proceeding as soon as is practical.

#### **iv. How Other Parties can Respond to Information Provided *In Camera***

If a party believes that information from the transcript of the *in camera* session should be disclosed, it can request disclosure of this information in the same way it would for any other information designated confidential (Rules 38 and 29 to 32).

There may be instances where the Commission grants parties an additional opportunity to file written replies in the proceeding. Where an *in camera* hearing subsequently takes place, the deadline to file such replies will be extended until some time after the abridged transcripts have been added to the public record. The Chair of the Panel will announce this extended deadline at the same time that the deadline to file abridged transcripts is announced.

#### **e. Competitive Licensing Hearings**

When the Commission is considering issuing a new broadcasting licence in a market, it may conduct what are called “competitive licensing hearings.” These public hearings may result from a Call for Applications, which allows anyone who is interested to file an application for a licence to operate in the market. In a competitive licensing hearing, the applicants compete against each other for the licence or licences that will be issued by the Commission in the market.

In these circumstances, each applicant is deemed to be an intervener to the other applications being heard, and its application is considered as its intervention (Rule 52).

At competitive licensing hearings, the parties appear in a different order than in other Commission hearings. First, each applicant presents its application. Second, each of the applicants appears in turn to intervene on the other applications following the same order in which it appeared to present its application. Third, the other interveners make their presentations. Fourth, each applicant appears in reply, except in the opposite order from which it presented its application (Rule 53).

#### **f. Show Cause Hearings**

When it appears to the Commission that a broadcasting licensee may not be complying with the *Broadcasting Act* and relevant regulations, its conditions of licence or a Commission decision, it can hold a public hearing to consider issuing a mandatory order requiring the licensee to comply with these requirements, and, among other things to consider suspending or revoking the licence.

In these hearings, the licensee has not applied to the Commission for any relief and therefore there is no applicant. Instead, the Commission creates a record for the proceeding that includes information from the licensee’s public file, complaints and the licensee’s responses and correspondence with the Commission on the relevant issues. It is the licensee’s responsibility to prove why the Commission should not take action (i.e. to “show cause” why the Commission shouldn’t act).

Although the licensee is not an applicant in these hearings, it is still required to provide notice of the hearing on its website and in any other way provided for in the Notice of Consultation (Rule 54).

The Commission will provide the licensee with a copy of the record of the proceeding when the Notice of Consultation is issued, and the licensee may file comments on whether the file is accurate or complete at least 15 days before the end of the intervention period set out in the Notice of Consultation (Rule 55).

Like an applicant, the licensee will have 10 days to reply to any interventions that are filed and will appear both first and last at the hearing (Rule 54).

## **10. Costs in Telecom Proceedings**

### **a. When Does the Commission Award Costs?**

Section 56 of the *Telecommunications Act* grants the Commission the power to award costs to persons who participate in its telecom proceedings. Over the years, the Commission has developed a general approach to costs that permits individuals and consumer groups to be reimbursed for the reasonable costs that they incur to participate in Commission proceedings. These costs are paid by the regulated companies who also participated in the hearing.

#### **i. In Telecommunications Proceedings Only**

The *Broadcasting Act* does not have a similar provision, and the Commission does not accept applications for costs for participation in broadcasting proceedings. Where a proceeding is converged (i.e. where it relates to matters under both Acts) a party can apply for costs that were incurred in relation to the telecom portion of the proceeding only.

#### **ii. the Criteria to be Eligible for Costs**

Rule 66 sets out the criteria that are used by the Commission to determine whether to award costs. A person is eligible to receive costs if he or she:

- has an interest in the proceeding, or represents someone who does;
- contributed to a better understanding of the issues; and
- participated in a responsible way.

### **b. Applying for Costs**

A party to a proceeding may file an application for reimbursement of its costs with the Commission, serving all parties in the proceeding, within 30 days after the last deadline for filing a writing submission (Rule 63).

The application must demonstrate that the party has met the criteria for the granting of costs which are described in Rule 66, identify the parties it feels should pay the costs and attach the taxation form which details the costs incurred (Rule 64). The amount of the costs requested should comply with the Commission's *Guidelines for the Taxation of Costs*. These costs should be accounted for using the taxation form set out in Telecom Information Bulletin [2010-453](#). It is also useful to look at past cost award decisions to see what costs have been found to be reasonable in the past.

Other parties in the proceeding will have an opportunity to reply within 10 days after the application is filed and the applicant for costs may reply to such replies within 10 days, serving those parties to which it is replying (Rules 64 and 25).

### **c. Interim Costs**

In complex proceedings that occur over a long period where significant costs are likely to be incurred, it may be necessary for parties to be reimbursed for at least a portion of their costs before the proceeding has concluded. In these circumstances, a party may apply for interim costs (Rule 58). A party is only eligible for interim costs if it can demonstrate that they can meet the criteria for final costs discussed above (Rule 61).

Although the Rules of Procedure do not set a deadline for this type of application, the Commission will generally provide for a deadline in its Notice of Consultation. If no deadline is set out in the Notice of Consultation, a party who wishes to apply for interim costs should do so as early in the process as possible.

An application for interim costs must demonstrate that the party can meet the eligibility criteria for final costs and must also include receipts or detailed estimates of the applicant's costs (Rule 59 (1)). Where possible, it is best to use the taxation form that is required for an application for final costs to set out these estimates, along with an explanation as to how these estimates were reached. Finally, an application for interim costs must identify who you think should pay costs.

The application must be served on all parties to the proceeding, who will have 10 days to respond (serving all parties), followed by 10 days for the applicant to reply (serving those that it is replying to)(Rules 60 and 25).

**[The Commission notes that in Notice of Consultation 2009-716, it asked for comments on if and how the Commission's policies with regard to cost proceedings should be revised.]**

### **Still Have Questions?**

If you have read these Guidelines and you still have questions about the Commission's procedures, you can contact Client Services, who will direct your call to the appropriate sector of the Commission.

Please note that Commission staff will not be able to help you with substantive questions – **they can't tell you how to make your application better or give you legal advice** – but they can answer your questions about how the procedure works.

You can contact the Commission:

**By Phone**

Toll-free: 1-877-249-CRTC (2782)

Outside Canada: 819-997-0313

Toll-free TTY line: The CRTC's toll-free TTY line is currently unavailable. In the meantime, please contact the following toll-free number 1-800-855-0511. We apologize for the inconvenience.

**By mail**

Canadian Radio-television and Telecommunications Commission  
Ottawa, Ontario  
Canada, K1A 0N2

**By fax**

819-994-0218

# **Appendix 3 to Broadcasting and Telecom Notice of Consultation CRTC 2010-509**

## ***Proposed Broadcasting Information Bulletin CRTC 2010-xxx***

PDF version

Ottawa, 23 July 2010

### ***Broadcasting applications that do not require a public process***

*The Commission deals with certain types of applications using an administrative approach. This is the case with routine applications that do not require a public process because they do not raise policy concerns or concerns relating to a licensee's obligations.*

*This information bulletin includes an up-to-date list of applications that will be dealt with using the administrative approach and describes the streamlined procedure applicable to such applications.*

#### **Introduction**

1. In Broadcasting Circular 2006-1, the Commission announced measures to streamline the processing of certain types of applications for licence amendments via a Notice of Consultation and using an administrative approach.
2. In Broadcasting and Telecom Notice of Consultation 2009-602, the Commission announced its intention to use a new process to deal with applications for licence amendments (the Part 1 process). This process will be used for applications that are currently dealt via a Notice of Consultation (Notice of applications received).
3. This information bulletin deals only with applications that do not require a public process that the Commission will deal with using the administrative approach. These applications are exempt from the provisions of the draft *Canadian Radio-Television and Telecommunications Commission Rules of practice and procedure* (the Rules of Procedure) by virtue of section 3.

#### **A process that works**

4. The Commission considers that the administrative approach is an effective way of processing routine applications that do not raise concerns. The streamlined process introduced by the Commission to deal with these applications benefits both the industry and the Commission. Each year the Commission publishes the results of the service standards that apply to applications dealt with using the streamlined process and the results confirm its effectiveness. These results can be found in the Commission's performance reports.

5. In this Information Bulletin, the Commission reiterates the process that applies to applications that do not require a public process and updates the list of types of applications that will be dealt with using the administrative approach.

### **Updated list of applications to be dealt with using the administrative approach**

6. Here is an updated list of types of applications that will be dealt with using the process described below:
- extensions of deadlines for the implementation of an authority to provide a new service;
  - extensions of deadlines for the filing of documentation or other information in response to a requirement set out in a Commission decision;
  - changes to the authorized contours of over-the-air programming undertakings provided that:
    - i) the revised contours do not enter a new market; and
    - ii) the proposal will not result in a change of the operating class of a low-power station;
  - changes to the authorized service areas of licensed broadcasting distribution undertakings; and
  - amendments to conditions of licence to implement a Commission regulatory policy or to add a standard condition.

### **The expedited process**

7. Applications dealt with using the administrative approach are subject to an expedited process. This process was established in 2006 and will continue to apply so that, within 15 business days following the receipt of an application for a licence amendment or for an authority that does not generally require a public process, the Commission will issue one of the following:
- a letter approving the application that does not raise policy or other concerns;
  - a letter requesting clarifications: the Commission expects applicants to respond quickly to the letter, i.e. within five business days;
  - a letter returning an application that is deemed incomplete, with supporting reasons.

### **Industry filing process**

8. Applicants must use the Commission's most recent application forms to file an application. The list of application forms is appended to Broadcasting and Telecom Information Bulletin 2010-453. In the absence of an application form, applicants must submit a letter that includes all the relevant information set out in section 20(2) of the Rules of Procedure.

9. Broadcasting and Telecom Information Bulletin 2010-453 also reiterates the requirement to file applications and related documents in electronic form using Epass.

**Processing of applications using the expedited process**

10. In order to maintain the integrity of the licensing process, the Commission will not generally be disposed to review, on an expedited basis, applications for licence amendments that are received within two years of (i) the implementation date of a new service, or (ii) the date of a Commission decision on an amendment concerning the same or a similar matter, except in the following cases:
- The application is filed for the purpose of allowing a broadcasting undertaking to avail itself of a new or amended Commission policy or other relevant Commission determination.
  - The application is filed pursuant to a request made by the Commission in an earlier decision.
  - The application for an amendment is filed as a result of circumstances genuinely unforeseen at the time of licensing, or to deal with a problem caused by a new event affecting the operation of the undertaking. In such a circumstance, the licensee filing the amendment application will be expected to demonstrate why the Commission should deal with the proposal using the expedited process.

**Decisions on applications that do not require a public process**

11. Pursuant to its usual practice, the Commission will issue an information bulletin every two months summarizing the applications that were dealt with using the administrative approach as well as the Commission's determination.

**Implementation**

12. The updated practices announced in this document will be effective upon issuance of this information bulletin. Accordingly, the measures relating to the administrative approach set out in Broadcasting Circular 2006-1 are replaced by this Information Bulletin.

Secretary General

**Related documents**

- *Obligation relating to the electronic filing of applications and use of Commission forms*, Broadcasting and Telecom Information Bulletin CRTC 2010-453, 5 July 2010
- *Streamlined processes for certain broadcasting applications*, Broadcasting Circular CRTC 2006-1, 27 March 2006

- *Call for comments on new draft regulations concerning CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Notice of Consultation CRTC 2009-602, 30 September 2009

## **Appendix 4 to Broadcasting and Telecom Notice of Consultation CRTC 2010-509**

### ***Proposed Broadcasting and Telecom Information Bulletin CRTC 2010-xxx***

PDF version

Ottawa, 23 July 2010

#### ***Information that can generally be designated confidential***

1. The purpose of this information bulletin is to update the list of information that can be designated confidential in a Commission proceeding. Accordingly, the information listed in *Guidelines respecting the confidential treatment of annual returns and material or information filed in support of a broadcasting application before the Commission*, Circular No. 429, 19 August 1998, is replaced with the information set out in the appendix to this information bulletin.
2. This list sets out information that is often filed as part of a Commission proceeding as well as the specific circumstances under which the information would generally either be placed on the public file or treated as confidential.
3. This list is provided as a reference only. The determination as to whether information can be designated confidential in a proceeding depends on details specific to that proceeding.
4. A party that designates confidential information that is not mentioned in the list appended to this information bulletin must provide the reasons for each piece of information that it designates as such.

Secretary General

## **Appendix 5 to the Broadcasting and Telecom Notice of Consultation CRTC 2010-509**

### **Proposed Telecom Information Bulletin CRTC 2010-xxx**

PDF version

Ottawa, 23 July 2010

#### ***Format for requests for information and responses***

5. This bulletin sets out, for telecommunications proceedings, the format to be used by parties in formulating requests for information and responses, which are provided for in the *Canadian Radio-television and Telecommunications Rules of Practice and Procedure*. Such requests can contain one or more interrogatories.

#### **Form of request**

6. A request must
- a. be addressed to the party; and
  - b. be identified with a designation in the following form: "xxxx (zzzz) dd-mm-yy", where
    - i. the first element, "xxxx," is an abbreviation, acronym, or initialism of the name of the party to whom the request is addressed;
    - ii. the second element, "zzzz," in parentheses, is an abbreviation, acronym, or initialism of the name of the requesting party; and
    - iii. the third element, "dd-mm-yy," is the date of the request.

#### **Numbering of interrogatories**

7. Interrogatories contained in a request must be numbered consecutively.

#### **Form of response**

8. A response to a request must be in the following form:

*(full name of party responding)*      Response to Request "xxxx (zzzz) dd-mm-yy"

*(date of response)*

Page 1 of 1

Preamble: *(reproduce any preamble set out in the request)*

Q. (*reproduce interrogatory, including the interrogatory number*)

A. (*set out response*)

Secretary General