



RULES OF PROCEDURE

Ontario Racing Commission

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20 Dundas Street West, 9th Floor, Toronto ON M5G 2C2
(416) 327-0520 FAX (416) 325-3478

Chair

Stanley Sadinsky

Executive Director

Jean Major

Senior Legal Counsel

Don Bourgeois

Rules of Procedure Ontario Racing Commission

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RULES OF PROCEDURE OF THE ONTARIO RACING COMMISSION

PURPOSE OF THESE RULES

The purpose of these Rules is to provide a fair, open and accessible process for parties and other interested persons to increase the efficiency and time lines of proceedings and to assist the Commission in fulfilling its statutory mandate.

APPLICATION OF RULES

- 1.1 (1) These Rules apply to the proceedings where public hearings are held by the Commission in discharge of its responsibilities under the Racing Commission Act.
- (2) In these Rules
- (a) “oral hearing” means a hearing involving the parties or their representatives attending in person before a panel of the Commission;
 - (b) “electronic hearing” means a hearing held by conference telephone or some other form of electronic technology allowing persons to hear one another;
 - (c) “written hearing” means a hearing held by means of the exchange of documents.
 - (d) “Director” means the Director or Acting Director of the Ontario Racing Commission.

CONFLICTS

- 1.2 Where any of these Rules is in conflict with any statute or regulation, the provisions of the statute or regulation shall prevail.

COMMISSION POWERS

- 1.3 The Commission may exercise any of its powers under these Rules on its own initiative or at the request of a party.
- 1.4 The Commission may issue general or specific procedural directions at any time.
- 1.5 (1) The Commission may waive or vary any of these Rules at any time.
- (2) It is sufficient if there is substantial compliance with a form or notice required by or under these Rules.
- 1.6 (1) The Commission may direct a party, at his or her expense, to give written notice of an application, hearing or any other matter to any person or class of person who may have an interest in the proceeding.
- (2) The Commission may direct the form of the notice or the manner in which notice is to be given.

DEFECTS IN FORM

- 1.7 No proceeding is invalid by reason only of a defect or other irregularity in form.

CONSENT OF PARTIES

- 1.8 If a party seeks a remedy or order that the Commission cannot grant without submissions from other parties, the party seeking the remedy or order should first seek the consent of the other parties and advise the Commission whether consent was obtained.

COMPUTING TIME (DEADLINES)

- 1.9 (1) Subject to Rule 1.10, in computing time periods under these Rules,
- (a) where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens;
 - (b) where a period of less than seven days is prescribed, holidays shall not be counted;
 - (c) where the time for doing an act under these Rules expires on a holiday, the act may be done on the next day that is not a holiday; and

- (d) where, under these Rules, a document would be deemed to be received or service would be deemed to be effective on a day that is a holiday, it shall be deemed to be received or effective on the next day which is not a holiday.
- (2) "Holiday" means Saturdays, Sundays and any statutory holidays.

LENGTHENING OR SHORTENING TIME PERIODS

- 1.10 The commission may, at any time and on such conditions as it considers appropriate, lengthen or shorten the time prescribed for the performance of any obligation under these Rules.

PARTIES AND OTHER PARTICIPANTS

- 1.11 (1) The following persons are parties for the purpose of these Rules:
 - (a) persons specified as parties by the statute under which proceeding arises;
 - (b) persons otherwise entitled by law to be parties to the proceeding; and
 - (c) persons who in the opinion of the Commission should be added as parties.
- (2) The Commission may add a party for all or part of the proceeding, and may make any other order as seems just to minimize prejudice or delay to other parties [or persons].

COMMUNICATIONS WITH THE COMMISSION

- 1.12 (1) Except for the filing of documents under Rule 2.2, all communications with the Commission in the absence of other parties shall be made through the office of the Director.
- (2) The Director may direct that the person communicating with the Commission provide a copy or notice of the communication to the parties [and other persons], prior to the Director dealing with the matter.
- 1.13 Where a party is represented by a representative, the Director may communicate with the party through the representative.

PROCEDURES BEFORE A HEARING

Service of Documents

- 2.1 (1) In these Rules, “service” of any document means the effective delivery to the person or representative.
- (2) For the purpose of Rule 2.1, “person” means anyone required to be served under these Rules.
- (3) Service may be given by delivering the document:
- (a) by personal delivery;
 - (b) by regular, registered or certified mail to the last known address of the person;

- (c) by fax to the last known fax number of the person but only if the document inclusive of the cover sheet, does not exceed 10 pages, or where longer, if the receiving party consents;
 - (d) by courier, including Priority Post, to the last known address of the person; or
 - (e) by any other means authorized or permitted by the Commission.
- (4) If it is impractical to give service in accordance with sub-Rule (3), the Commission may give such directions for substituted service as it considers appropriate or, where necessary, may dispense with service.
- (5) Service is deemed to be effective, when delivered:
 - (a) by personal delivery before 4:30 p.m., on the day of delivery, and after that time, on the next day;
 - (b) by mail, on the fifth day after the day of mailing;
 - (c) by fax, on the day after it was sent;
 - (d) by courier, on the second day after the document was given to the courier; or
 - (e) by any means authorized or permitted by the Commission on the date specified by the Commission in its direction.
- (6) Sub-Rule (5) does not apply where a person who acts in good faith does not, through absence, accident, illness or other causes beyond the person's control, receive the notice until later or at all.
- (7) The Commission may direct that a sworn statement be filed indicating who has been served, what documents have been served, when they were served and by what method.

- (8) A document that is served or filed by fax must include a cover page with sufficient information to identify the sender, recipient, number of pages sent, date and time of transmission and a telephone number to call in case of transmission problems.

Filing Documents with the Tribunal

- 2.2 (1) In these Rules, "filing" of any document means the effective delivery to the Commission in accordance with these Rules and its receipt by the Commission.
- (2) Documents may be filed by any of the methods of delivery set out in Rule 2.1(3) and shall be directed to the Director unless otherwise directed by the Commission.
- (3) Documents are deemed to be filed as of the date they are received by the Commission or the date specified in Rule 2.1(5), whichever is later.
- (4) A document exceeding 16 pages, inclusive of the cover sheet, shall be filed by fax only with the prior approval of the Commission and the original shall be filed within 5 days.
- (5) A person who serves or files a document shall include with it a statement of the person's address, telephone number and the name of the proceeding to which the document relates.
- (6) Five (5) additional copies of a document must be filed with the original document.

Motions

- 2.3 (1) “Motion” means a request for the Commission’s ruling or decision on a particular issue at any stage within a proceeding or intended proceeding.
- (2) A party may bring a motion at the hearing or before the hearing by arrangement with the Director.
- (3) Subject to sub-Rule (5), motions for simple procedural issues may be brought at a hearing without a notice of motion.
- (4) Notice is required for a motion involving the following matters:
- a. jurisdiction of the Commission;
 - b. requests for stay of the proceeding;
 - c. constitutional issues, including the Charter of Rights and Freedoms;
 - d. motions involving significant legal issues or significant disputes in fact; or
 - e. disclosure of particulars, documents or things.
- (5) The Commission may direct that the motion will be dealt with in writing or by any other means and may direct the procedure to be followed and set applicable time limits.
- (6) A notice of motion does not need to be in any particular form, but shall set out the grounds for the motion and the relief requested, and shall be accompanied by any evidence to be relied upon or an affidavit setting out the facts upon which the party relies.

- (7) Unless the Commission otherwise permits, the party bringing the motion shall serve and file a written notice of motion at least 5 days before the Commission deals with the motion.
- (8) The notice shall be served on the other parties to the proceeding.
- (9) A party or person who wishes to respond to a motion shall serve and file a response, at least 2 days before the Commission deals with the motion, accompanied by any evidence to be relied upon or an affidavit setting out the facts upon which the party relies.

Notice of Constitutional Questions

- 2.4
- (1) Where a party intends to raise a question about the constitutional validity or applicability of legislation, a regulation or by-law made under legislation, or a rule of common law, or where a party claims a remedy under subsection 24(1) of the Canadian Charter of Rights and Freedoms, notice of a constitutional question shall be served on the other parties and the Commission as soon as the circumstances requiring notice become known and, in any event, at least 15 days before the question is to be argued.
 - (2) Where the Attorney General of Canada and Ontario are entitled to notice, they are entitled to adduce evidence and make submissions to the Commission regarding the constitutional question.
 - (3) Notice shall be substantially in the same form as Form 4F under the Rules of Civil Procedure.

Summons to Witness

- 2.5 A summons to a witness may be signed by the Director.
- 2.6 A party to a proceeding may request a summons to a witness from the Director upon disclosing the name and address of the witness to be summoned.
- 2.7 The issuance of or refusal to summons may be reviewed by the Commission.
- 2.8 Service of a summons on a witness is the responsibility of the party who obtained the summons.
- 2.9
 - (1) The party who obtained the summons shall pay the witness' fees and allowances in accordance with Tariff A under the Rules of Civil Procedure.
 - (2) The Commission may require that the fees or allowances shall be paid to the witness at the time of:
 - (a) service of the summons;
 - (b) the hearing; or
 - (c) any other time.

DISCLOSURE RULES (Oral and Electronic Hearings)

Power to Order Disclosure

- 3.1 At any time, the Commission may order any party or person to provide to any other party or person and to the Commission such further particulars, information or documents as the Commission considers necessary for a full and satisfactory understanding of the issues in the proceeding.

Disclosure of Documents and Things

- 3.2 “Document” includes:
- (a) forms, correspondence, memoranda, files, books of account, agreements, reports, charts, graphs, and any other written or pictorial communication;
 - (b) a sound recording, videotape, photograph, map, plan, survey or like thing; and
 - (c) information recorded or stored by means of any device, including computer files.
- 3.3 A party to a hearing shall disclose to all other parties 10 days before the hearing or as otherwise ordered by the Commission the existence of every document and thing that it will refer to or give in evidence at the hearing.
- 3.4 Each party to a hearing shall:

- (a) make available for inspection by any other party 10 days before the hearing or as otherwise ordered by the Commission all documents that the party will produce or enter as evidence at the hearing.
- (b) serve each of the other parties and file by 10 days before the hearing or as otherwise ordered by the Commission copies of all documents that the party will produce or enter as evidence at the hearing.

3.5 The Commission may at any stage of the proceeding order a party:

- (a) to disclose to any other party the existence of all documents and things that the party will refer to or enter as evidence at the hearing;
- (b) to make available for inspection by any other party all documents that the party will produce or enter as evidence at the hearing and permit the inspecting party to make copies of the documents;
- (c) to serve any other party and file copies of all documents that the party will produce or enter as evidence at the hearing.

3.6 A party to a hearing shall make available for inspection by any other party by 10 days before the hearing or as otherwise ordered by the Commission all things, other than documents, that the party will produce or enter as evidence at the hearing.

3.7 The Commission may at any stage of the proceeding order a party to make available for inspection or testing, any thing, other than a document, that the

party will produce or enter in evidence at the hearing, and may impose any conditions it considers appropriate.

- 3.8 If a party fails to comply with the provisions of Rules 3.3 to 3.6, the party may not refer to the document or thing or enter the document or thing in evidence at the hearing without the consent of the Commission which may be on such conditions as the Commission considers appropriate.

Expert Witness Statements

- 3.9 A party that intends to call an expert witness at the hearing shall by 10 days before the hearing serve every other party a written report signed by the expert containing the name, address and qualifications of the expert and the substance of the expert's proposed evidence including a list of all the documents to which the expert will refer.
- 3.10 If a party fails to comply with the provisions of Rule 3.9, the party may not call the expert witness without the consent of the Commission which may be on such conditions as the Commission considers appropriate.

NOTICES OF HEARING AND FAILURE TO PARTICIPATE

Notice of a Hearing, Generally

- 4.1 (1) Unless otherwise ordered, written notice of a hearing shall be given by the Commission to the parties and other persons as required by statute and to such other persons as the Commission considers necessary.
- (2) All notices of hearing shall include:
- (a) a reference to the statutory authority under which the hearing is to be held;
 - (b) a statement of the purpose of the hearing; and
 - (c) a statement that the party may have a representative at the hearing.
- (3) The Commission may include in a notice of hearing any other information or directions it considers necessary for the proper conduct of the hearing.

Notice of Oral Hearing

- 4.2 For an oral hearing, in addition to the requirements of sub-Rule 4.1(2), the notice of hearing shall include:
- (a) a statement of the time and place of the hearing;

- (b) a statement that if the party notified does not attend at the hearing, the Commission may proceed in that party's absence and the party will not be entitled to any further notice in the proceeding; and
- (c) a statement that the hearing will be open to the public unless the Commission directs otherwise.

Notice of Written Hearing

- 4.3 For a written hearing, in addition to the requirements of sub-Rule 4.1(2), the notice of hearing shall include:
- (a) a statement of the time of the hearing which is provided by setting out the time periods during which parties are to serve and file documents for the written hearing; or
 - (b) such directions as the Commission sees fit.
 - (c) a statement that the party notified may object to the hearing being held as a written hearing by filing an objection (by 5 days before the hearing), and a statement that where an objection is filed, the Commission will hold an oral or electronic hearing, and will supply directions as to the holding of that hearing;
 - (d) a statement that if the party notified neither objects to the hearing being a written hearing, in the manner set out in paragraph (c), nor participates in the hearing in accordance with the notice, the Commission may proceed without the party's participation and the party will not be entitled to any further notice in the proceeding.

Notice of Electronic Hearing

- 4.4 For an electronic hearing, in addition to the requirements of sub-Rule 4.1(2), the notice of hearing shall include:
- (a) a statement of the time of the hearing, and details about the manner in which the hearing will be held;
 - (b) a statement that the only purpose of the hearing is to deal with procedural matters, if that is the case;
 - (c) if paragraph (b) does not apply, a statement that the party notified may, by satisfying the Commission that holding the hearing as an electronic hearing is likely to cause the party significant prejudice, require the Commission to hold the hearing as an oral hearing, and an indication of the procedure to be followed for the purpose; and
 - (d) a statement that if the party notified neither follows the procedure set out in paragraph (c) for objections to an electronic hearing, if applicable, nor participates in the hearing in accordance with the notice, the Commission may proceed without the party's participation and the party will not be entitled to any further notice in the proceeding.

Serving a Notice of Hearing

- 4.5 Unless otherwise ordered, notice of hearing is sufficiently given if served under Rule 2.1. with 4 clear days notice.

Non-Attendance or Non-Participation

- 4.6 (1) Where notice of an oral hearing has been given to any party in accordance with these Rules and any applicable legislation, and the party does not attend at the hearing, the Commission may proceed in their absence and that party is not entitled to any further notice in the proceedings;
- (2) Where notice of a written hearing has been given to a party in accordance with these Rules and any applicable legislation, and the party neither objects to a written hearing in the manner set out in the notice, nor participates in the hearing in accordance with the notice, the Commission may proceed without the party's participation and the party is not entitled to any further notice in the proceeding;
- (3) Where notice of an electronic hearing has been given to a party in accordance with these Rules and any applicable legislation, and the party neither objects to an electronic hearing in the manner set out in the notice, if applicable, nor participates in the hearing in accordance with the notice, the Commission may proceed without the party's participation and the party is not entitled to any further notice in the proceedings.

PRE-HEARING CONFERENCES

Direction to attend

- 5.1 The Tribunal may direct the parties or their representatives to attend one or more pre-hearing conferences for the purpose of considering any matter including:
- (a) identification of parties and other interested persons and the scope of their participation at the hearing;
 - (b) issues relating to disclosure and the exchange of information;
 - (c) identification and simplification of issues;
 - (d) identification of preliminary motions;
 - (e) procedural issues including the dates by which any steps in the proceeding are to be taken or begun, the estimated duration of the hearing and the date that the hearing will begin;
 - (f) identification of facts or evidence that may be agreed upon;
 - (g) settlement of any or all of the issues; and
 - (h) any other matter that may assist in the just and most expeditious disposition of the proceeding.

Notice of a pre-hearing conference

- 5.2 (1) Unless otherwise ordered, written notice of a pre-hearing conference shall be given by the Tribunal to the parties and to such other persons as the Tribunal considers necessary.

(2) The notice shall include:

- (a) the time, place and purpose of the pre-hearing conference;
- (b) whether parties are required under Rule 5.3 to exchange (or file) documents or pre-hearing submissions and, if so, the issues to be addressed and the date when the documents or submissions are required; and
- (c) whether parties (or other persons) are required to attend in person, and,
 - (i) If so, that they may have a representative at the pre-hearing conference, or
 - (ii) If not, that their representative must be given authority to make agreements and give undertakings on their behalf respecting the matters to be addressed at the pre-hearing conference.

Preparation for conference

5.3 The Tribunal may direct the parties to exchange and file documents or submissions prior to the pre-hearing conference.

Oral, written or electronic conferences

5.4 A pre-hearing conference may be held in person, in writing or electronically.

Access by the public

- 5.5 (1) A pre-hearing conference shall be open to the public unless the Tribunal directs that all or part of it be held in the absence of the public.
- (2) Where (all or part of) a pre-hearing conference is held in the absence of the public, documents filed which are considered confidential or which were filed for the purpose of settlement shall
- (a) be returned to the party who filed the documents after the conference; and
 - (b) shall not be considered to be filed in the proceedings.

Settlement discussions

- 5.6 If settlement of any or all of the issues is a purpose of a pre-hearing conference, the member or person who presides at a pre-hearing conference may meet with the parties or with each party separately to encourage settlement.
- 5.7 (1) If there is any discussion for the purpose of settlement at the pre-hearing conference, the member who held the conference shall not preside at the hearing unless all parties consent in writing or on the record.
- (2) In Rules 5.7 and 5.8, "settlement" means attempting to settle in a final way any ground for relief requested in the proceeding.
- 5.8 (1) Settlement discussions at a pre-hearing conference shall be held in the absence of the public.

- (2) Evidence filed or statements made for the purpose of settlement, and statements made “without prejudice”, shall not be revealed at the hearing by any party and shall not be communicated to the member presiding at the hearing.
- (3) Sub-Rule (2) does not apply if the party who tendered the evidence or made the settlement consents to the evidence or statement being revealed at the hearing.

Orders, agreements and undertakings

- 5.9
 - (1) Orders, agreements and undertakings made at a pre-hearing conference shall be recorded in a memorandum prepared by or under the direction of the member or person presiding at the pre-hearing conference.
 - (2) Copies of this memorandum shall be provided to the parties and to the member presiding at the hearing and to such other persons as the member or person presiding at the pre-hearing conference directs.
 - (3) The orders, agreements and undertakings in the memorandum shall govern the conduct of the proceeding and are binding upon the parties to the proceeding unless otherwise ordered by the Tribunal.
- 5.10 An agreement to settle any or all of the grounds for relief binds the parties to the agreement unless otherwise ordered by the Tribunal.

PUBLIC ACCESS TO HEARINGS

Public Access

- 6.1 (1) A hearing shall be open to the public except where the Commission is of the opinion that:
- (a) matters involving public security may be disclosed; or
 - (b) intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest, outweighs the desirability of adhering to the principle that hearings be open to the public.
- in which case the Commission may hold the hearing in the absence of the public.
- (2) For an electronic hearing, the Commission need not provide facilities to allow for public participation or attendance.

Hearings in the Absence of the Public

- 6.2 (1) The Commission may impose such conditions as the Commission considers appropriate for the conduct of a hearing held in the absence of the public.
- (2) Where a hearing or part of a hearing is held in the absence of the public, unless otherwise ordered by the Commission, the hearing may be attended by:
- (a) the person who is to present the confidential information;

- (b) Commission staff;
 - (c) the parties to a hearing;
 - (d) the parties' representatives;
 - (e) advisors, to assist representatives, at the discretion of the Commission; and
 - (f) such other persons as the Commission considers appropriate.
- (3) Exhibits, documents and transcripts relating to that part of the hearing that is held in the absence of the public, shall be marked "confidential" and shall be kept separate from the public record and access to this material shall only be by order of the Commission or as authorized by law.
- (4) Where a hearing or part of a hearing is held in the absence of the public or access to documents is restricted, the Commission may issue a public version of its order or decision.

6.3 Agreements approved by the Commission and orders or decisions which dispose of proceedings as it affects any party shall be accessible to the public unless the Commission directs otherwise.

CONTINUE AS ORAL OR ELECTRONIC HEARING

- 7.1 (1) Whenever appropriate, the Commission may continue a written hearing as:
- (a) an oral hearing, or
 - (b) as an electronic hearing, after considering any objection made under Rule 8.

- (2) If the Commission decides to convert a written hearing into an oral or electronic hearing or to start the hearing again as an oral or electronic hearing, it shall notify the parties of its decision or order and may supply directions as to the holding of that hearing.

OBJECTIONS TO A WRITTEN HEARING

- 7.2 (1) A party may serve and file an objection to the hearing being held as a written hearing within 5 days after receiving notice of the written hearing.
- (2) If a party objects to a written hearing, the Commission shall notify the parties of the objection and give notice of oral or electronic hearing.

EXCHANGE OF DOCUMENTS PROCEDURE

- 7.3 (1) The applicant shall serve and file the evidence that supports the remedy or order requested, together with its submissions, within 5 days after receiving the notice of the written hearing.
- (2) If other parties wish to respond, they shall do so by serving and filing a response within 5 days after receiving the notice of hearing.
- (3) A response shall:
 - (a) be accompanied by the evidence that explains or supports the response, and
 - (b) set out the party's submissions

- (c) set out any remedy or order requested.
- (4) The applicant may reply to a response by serving and filing a reply within 2 days after receiving a response from any other party.
- (5) The reply shall:
 - (a) set out the applicant's position with respect to the response, and
 - (b) be accompanied by the evidence, if any, that explains or supports the reply.

ORAL EXAMINATION

- 7.4 In a written hearing, there shall be no oral examinations unless ordered by the Commission, and the Commission may impose conditions it considers appropriate.

APPLICATION OF DISCLOSURE RULES

- 7.5 Rule 3 does not apply to a written hearing, except Rules 3.3 and 3.9.

CONTINUE AS ORAL OR WRITTEN HEARING

- 8.1 The Commission may continue an electronic hearing as an oral hearing whenever the Commission considers it appropriate, or as a written hearing with the consent of the parties.

OBJECTIONS TO ELECTRONIC HEARINGS

- 8.2 (1) A party who objects to a hearing being held as an electronic hearing shall notify the Commission of its objection in writing within 5 days of receiving notice of the electronic hearing.
- (2) All other parties may send a written response to the objection to each other and to the Commission within 2 days of receiving the objection, unless the Commission orders otherwise.
- 8.3 A notice of objection shall be in the form of a notice of motion with accompanying affidavits in support of the motion and the objecting parties responding to the motion shall follow the usual procedure for the hearing of motions.

PROCEDURE WHEN OBJECTION IS MADE

- 8.4 (1) If the Commission receives an objection:
- (a) it may accept the objection, cancel the electronic hearing and either schedule an oral hearing or, with consent of the parties, schedule a written hearing;
 - (b) if the Commission is satisfied that an electronic hearing will cause no significant prejudice, it may reject the objection without inviting responses from the other parties and proceed with the electronic hearing; or
 - (c) the Commission may provide all other parties with an opportunity to respond to the objection in writing or electronically and, after considering

the objection and all responses, proceed with the electronic hearing, schedule an oral hearing, or with consent of the parties, schedule a written hearing.

- (2) For the purposes of clause (c) of sub-Rule (1), the Commission shall provide directions in the notice for the form and timing of the responses and for the reply, if any, objecting parties to these responses.
- (3) The Commission shall not hold an electronic hearing if a party satisfies it that holding an electronic hearing rather than an oral hearing is likely to cause significant prejudice to the party.
- (4) Sub-Rule (4) does not apply if the only purpose of the hearing is to decide procedural matters.

CONDITIONS

- 8.5 The Commission may impose any conditions for an electronic hearing it considers appropriate, including:
 - (a) specifying who will set up the electronic hearing; or
 - (b) requiring that a party requesting an electronic hearing pay all or part of the cost of providing the facilities necessary for the electronic hearing.

FORM OF EVIDENCE

- 9.1 The Commission may direct the form in which evidence shall be filed.

HEARSAY EVIDENCE

- 9.2 At a hearing a Commission may admit any evidence, including hearsay, relevant to the subject-matter of the proceeding.

AGREED FACTS

- 9.3 The Commission may receive and act on any facts agreed on by the parties without proof or evidence.

APPLICATION OF CERTAIN EVIDENCE RULES

- 9.4 The Rules governing electronic hearing and written hearing do not affect the admissibility, at an oral hearing, of written or electronic evidence admissible under section 15 of the Statutory Powers Procedure Act.

COMBINING PROCEEDINGS OR HEARING PROCEEDINGS TOGETHER

- 10.1 If two or more proceedings before the Commission involve the same or similar questions of fact, law or policy, the Commission may, with the consent of the parties, combine the proceedings or any part of them or hear the proceedings at the same time.
- 10.2 Where the Commission combines or hears together two or more proceedings it may do so subject to conditions it considers appropriate.
- 10.3 Where two or more proceedings are combined:
- (1) statutory procedural requirements for any one of the original separate proceedings apply to the combined proceeding;
 - (2) the parties to each of the original separate proceedings are parties to the combined proceeding; and
 - (3) evidence presented in each proceeding is evidence in the combined proceeding.
- 10.4 Where two or more proceedings are heard together:
- (1) statutory requirements for each of the proceedings apply only to the part of the hearing respecting that proceeding and not to the part of the hearing respecting the other proceedings;
 - (2) parties to the hearing are parties to their individual proceedings only and are not parties to the other proceedings; and

(3) unless otherwise ordered by the Commission, evidence in the hearing is evidence in all the proceedings.

- 10.5 Where two or more proceedings, or any part of them, have been combined, if combining the proceedings unduly complicates or delays the proceedings or causes prejudice to a party, the Commission may order that the proceedings are no longer combined and continue with the proceedings separately.
- 10.6 Where two or more proceedings are heard together, if hearing the proceedings together unduly complicates or delays the proceedings or causes prejudice to a party, the Commission may require separate hearings for all or any part of the proceedings.

RECORDING OF COMMISSION PROCEEDINGS

- 10.7 No person shall make a visual or audio recording of any part of the Commission proceeding unless authorized by the Commission.
- 10.8 The Commission shall not authorize the visual or audio recording of all or part of the proceeding if, in the opinion of the Commission, such recording would inhibit witnesses or disrupt the proceeding in any way.
- 10.9 Despite Rule 10.7, a party, party's representative, or journalist may unobtrusively make an audio recording at a hearing for the sole purpose of

supplementing or replacing that person's notes, provided that the Commission is notified in advance and no other use is made of the recording.

COURT REPORTERS

- 10.10 (1) The Commission may arrange for the verbatim recording of the proceedings by a qualified verbatim reporter.
- (2) Despite Rule 10.7, where the Commission does not provide for a verbatim recording of the hearing, any party may bring a qualified verbatim reporter at their own expense for the purpose of creating a transcript provided that the party notifies the Commission in advance.
- 10.11 The first party to order a transcript shall pay the cost of transcribing and shall file a copy of the transcript as part of the record.

INTERPRETERS FOR OTHER LANGUAGES

- 10.12 If a party or witness requires an interpreter in a language other than English, the party shall notify the Commission and if the language is other than French, shall provide an interpreter at their own expense.
- 10.13 An interpreter shall be competent and independent and shall swear or affirm that they will interpret accurately.

SPECIAL NEEDS

- 10.14 Parties should notify the Commission as early as possible of any special needs of parties or their witnesses.

ADJOURNMENTS

- 10.15 A hearing may be adjourned from time to time by a Commission of its own motion or at the request of a party.
- 10.16 Except in extraordinary circumstances, the Commission may refuse an adjournment where:
- (a) the hearing date was scheduled “peremptory” against the party requesting the adjournment, or
 - (b) where the only ground for the adjournment is that the party unreasonably delayed retaining a representative.
- 10.17 In granting an adjournment, the Commission may impose such conditions as it considers appropriate.

OPENING STATEMENTS

- 10.18 Unless the Commission otherwise directs,
- (a) at the beginning of the hearing, each party may give a brief opening statement that describes the issues that party will address at the hearing.

- 10.19 Evidence at a hearing shall be presented by the parties in the order directed by the Commission.
- 10.20 Questioning of witnesses will follow in the same order as the parties adduced evidence.

FILING DOCUMENTS AT A HEARING

- 10.21 (1) Any person tendering a document as evidence in a hearing:
- (a) shall file the original, or a copy, for the Commission record, which shall be marked as the official exhibit, and
 - (b) should provide one copy for each member at the hearing and one copy for each party and the Court Reporter.
- (2) Where a document has been filed in evidence at a hearing, the Commission may permit the original documents to be replaced by a copy.

OATH OR AFFIRMATION

- 10.22 Oral examination of witnesses shall be conducted under oath or affirmation that their evidence will be true.

EXCLUSION OF WITNESSES

- 10.23 (1) The Commission may order that witnesses be excluded from the hearing until called to give evidence.
- (2) An order under sub-Rule (1) may not be made in respect of a party to the proceeding or a witness whose presence is essential to instruct counsel for the party calling the witness, but the Commission may require any such party or witness to give evidence before any other witnesses are called to give evidence on behalf of that party.
- (3) Where an order is made excluding witnesses from the hearing, there shall be no communication to the witness of any evidence given during their absence from the hearing, except with the leave of the Commission, until after the witness has been called and has given the evidence.

EXPERT ASSISTANCE SOUGHT BY THE COMMISSION

- 10.24 (1) The Commission may request a person having professional, technical or other knowledge to assist the Commission in any capacity in respect of any matter before it.
- (2) Where the Commission receives such assistance, it will not rely upon any new evidence or upon any new issue raised without notifying the parties and providing them with an opportunity to make submissions.

ARGUMENT AND SUBMISSIONS

- 10.25 (1) After the parties have had an opportunity to present evidence, the Commission shall give all parties an opportunity to make a final argument in support of the decision or order they want the Commission to make.
- (2) The parties will make their final arguments in the order in which they were given an opportunity to present their evidence, unless otherwise ordered.
- (3) The Commission may order the parties to submit written argument on any issue and shall direct the order and timing of submission of written arguments.
- (4) Parties should include in their argument the specific order requested.

ORAL AND WRITTEN DECISIONS

- 11.1 (1) The Commission may reserve its decision or order or may indicate its decision orally at the end of the hearing.
- (2) Despite sub-Rule (1), the Commission shall issue a written final decision or order, which shall be the official decision or order of the Commission.
- (3) If there is a discrepancy between an oral and written decision or order, the written one shall prevail.
- (4) If a decision or order requires clarification, a party may apply to the Commission for direction on notice to the other parties.

- (5) Nothing in this Rule prevents a Commission from changing an interim decision in its final decision or order.
- (6) If there is a dissent, the written decision or order shall indicate which member dissents.
- (7) If requested by any party the Commission shall issue written reasons for its decision or order including any dissenting reasons.
- (8) The Commission may issue its written reasons for decision at a different time and in a separate document from its decision or order.

MEANS OF SENDING A DECISION

- 11.2 (1) The Commission shall send to all parties who participated in the proceedings, or their representatives, a copy of its final decision or order, including the reasons if any have been given.
- (2) The Commission may send its decision or order using any method permitted by Rule 2.1.

EFFECTIVE DATE OF DECISION OR ORDER

- 11.3 A Commission decision or order is effective from the date on which the decision or order is made or released unless the Commission directs otherwise.



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