



Broadcasting and Telecom Regulatory Policy CRTC 2010-958

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Ottawa, 23 December 2010

Implementation of new *Rules of Practice and Procedure*

The Commission announces that it has made the Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure (SOR/2010-277) (the Rules of Procedure), which were published in the Canada Gazette, Part II on 8 December 2010. The Rules of Procedure come into force on 1 April 2011 and will apply to all proceedings before the Commission on that date, on a going forward basis. Today the Commission is also publishing Guidelines on the CRTC Rules of Practice and Procedure and other related information bulletins.

Introduction

1. The Commission hereby announces that it has made the *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (SOR/2010-277) (the Rules of Procedure). The Rules of Procedure replace the Commission's existing rules of procedure for broadcasting and telecommunications. Accordingly, the Commission has also repealed the *CRTC Rules of Procedure* (C.R.C., c. 375) and the *CRTC Telecommunications Rules of Procedure* (SOR/79-544).
2. The Rules of Procedure were registered on 26 November 2010 (SOR/2010-277) and come into force on 1 April 2011. The Rules of Procedure were published in the *Canada Gazette*, Part II on 8 December 2010, and a copy is appended to this regulatory policy.
3. The Commission is also issuing, today, the following information bulletins that serve to explain and apply the new Rules of Procedure in a manner that is as efficient and accessible as possible:
 - *Guidelines on the CRTC Rules of Practice and Procedure* (the Guidelines);
 - *Broadcasting applications that do not require a public process*;
 - *Procedures for filing confidential information and requesting its disclosure in Commission proceedings* (the Confidentiality Bulletin); and
 - *Format for requests for information and responses*.

4. The making of the Rules of Procedure completes a public process that began on 30 September 2009 when the Commission issued Broadcasting and Telecom Notice of Consultation 2009-602 (Notice of Consultation 2009-602) seeking comments on rules of practice and procedure (the Proposed Rules) that would apply to both broadcasting and telecommunications.
5. After considering the comments received in response to Notice of Consultation 2009-602, the Commission issued Broadcasting and Telecom Notice of Consultation 2010-509 (Notice of Consultation 2010-509) seeking comments on a revised version of the Proposed Rules as well as on preliminary versions of the four related information bulletins mentioned in paragraph 3.
6. The Commission received comments from parties including broadcasters, telecommunications service providers, industry associations, consumer groups and accessibility advocates. The comments are available on the Commission's website at www.crtc.gc.ca under "Public Proceedings."
7. The Commission has carefully reviewed each of these comments and has made a number of changes in the Rules of Procedure to address the concerns raised. These include, among other things:
 - explicit inclusion of written proceedings initiated by Notice of Consultation;
 - changes to the computation of time and the time period for retaining proof of filing and service;
 - a revised process for requesting documents in an alternative format; and
 - reincorporation of certain information bulletins.
8. In other cases, the Commission has revised the related information bulletins to clarify matters on which parties expressed confusion.
9. The Commission will not address each of these changes in this regulatory policy but will address the following issues:
 - broadcasters' concerns regarding the Part 1 Process, respondents and confidentiality;
 - the deadline to file a review and vary application in telecommunications; and
 - the implementation of the Rules of Procedure.

Broadcasters' concerns regarding the Part 1 Process, respondents and confidentiality

10. Broadcasters generally reiterated concerns expressed in response to Notice of Consultation 2009-602 with regard to the following issues:
 - the applicability of the Part 1 Process to certain broadcasting applications;

- who would be considered a respondent to these applications; and
 - the loss of an applicant's right to withdraw confidential information that the Commission has determined should be made public.
11. The Commission will apply the Part 1 Process and the service of respondents as proposed for the reasons expressed in paragraphs 18 to 20 of Notice of Consultation 2010-509. However, the Commission has revised the Rules of Procedure to further address concerns about the withdrawal of information by applicants that was provided for under Circular No. 429. The Commission has also provided more detailed examples of who constitutes a respondent in the Guidelines.

The deadline to file a review and vary application in telecommunications

12. In Notice of Consultation 2010-509, the Commission announced that it had included in the Proposed Rules a rule stating that applications to review and vary a decision of the Commission pursuant to section 62 of the *Telecommunications Act* must be made within 90 days. This rule formalized the Commission's policy on review and vary applications found in Telecom Public Notice 98-6 and shortened the deadline.
13. Telus Communications Corporation and other parties argued that the Commission does not have the authority to abrogate a statutory right of review granted in the *Telecommunications Act* by way of a rule of procedure.
14. The Commission considers that it is important that the Rules of Procedure include a deadline for the filing of review and vary applications in order to ensure regulatory predictability and certainty. The Commission has revised section 71 to provide that the Commission may extend the deadline where it determines that it is just and equitable to do so.

Implementation

15. Some parties expressed concern about procedural problems that could arise when the new Rules of Procedure come into force. They suggested that there be a transition period, information sessions, and a commitment by the Commission to review the Rules of Procedure within a few years of their coming into force.
16. The Commission is aware that the new Rules of Procedure constitute a significant change both for itself and for participants in Commission proceedings. The Commission considers that it is appropriate to provide persons who participate in its proceedings with both the time and the tools to familiarize themselves with the new Rules of Procedure before they are implemented.
17. Accordingly, the Rules of Procedure will come into force on 1 April 2011. The Commission has created a web page dedicated to the Rules of Procedure, the Guidelines and the other information bulletins as well as other related information. In addition, the Commission will conduct an outreach project to inform and educate the industry and the general public about the Rules of Procedure.

18. The Commission considers that it is important that the Rules of Procedure be applied on a consistent basis across its proceedings to minimize the length and confusion of the transition. Therefore, **the Rules of Procedure will apply to all proceedings before the Commission as of 1 April 2011, on a going forward basis.**
19. Given that the new rules with respect to the service of documents will not apply until the implementation of the Rules of Procedure, the Commission will process all broadcasting applications for licence amendments filed before 1 April 2011 by way of a notice of consultation. However, such applications filed on 1 April 2011 and thereafter will be processed under Part 1 of the Rules of Procedure. The Commission will therefore publish the applications individually on its website, and the deadlines and procedures set out in Part 1 of the Rules of Procedure will apply.
20. The Commission will monitor the implementation of the Rules of Procedure closely during their first year in force and will consider any modifications necessary to address issues that arise. Moreover, the Commission intends to conduct a review of the Rules of Procedure within five years after their coming into force.
21. The Commission wishes to thank all who participated in these proceedings. It appreciates the effort reflected in the written submissions, which contributed greatly to the quality of the Rules of Procedure.

Secretary General

Related documents

- *Format for requests for information and responses*, Telecom Information Bulletin CRTC 2010-962, 23 December 2010
- *Procedures for filing confidential information and requesting its disclosure in Commission proceedings*, Broadcasting and Telecom Information Bulletin CRTC 2010-961, 23 December 2010
- *Broadcasting applications that do not require a public process*, Broadcasting Information Bulletin CRTC 2010-960, 23 December 2010
- *Guidelines on the CRTC Rules of Practice and Procedure*, Broadcasting and Telecom Information Bulletin CRTC 2010-959, 23 December 2010
- *Converged Rules of Procedure*, Broadcasting and Telecom Notice of Consultation CRTC 2010-509, 23 July 2010
- *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
- *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
- *Guidelines for review and vary applications*, Telecom Public Notice CRTC 98-6, 20 March 1998

Appendix to Broadcasting and Telecom Regulatory Policy CRTC 2010-958

Whereas, pursuant to subsections 10(3) of the *Broadcasting Act*^a and 69(1) of the *Telecommunications Act*^b, a copy of the proposed *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*, substantially in the annexed form, was published in the *Canada Gazette*, Part I, on July 31, 2010, and a reasonable opportunity was thereby given to licensees and other interested persons to make representations to the Canadian Radio-television and Telecommunications Commission with respect to the proposed Rules;

Therefore, the Canadian Radio-television and Telecommunications Commission, pursuant to sections 10 and 21 of the *Broadcasting Act*^a and sections 57 and 67 of the *Telecommunications Act*^b, hereby makes the annexed *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*.

Gatineau, Quebec, November 26, 2010

Jennifer Wilson

Acting Secretary General

Canadian Radio-television and Telecommunications Commission

^a S.C. 1991, c. 11

^b S.C. 1993, c. 38

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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.

APPLICATION

Application

2. Except if they otherwise provide, these Rules apply to all proceedings before the Commission other than a proceeding arising from an application listed in Schedule 1 or 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*.

MATTERS BEFORE THE COMMISSION

How matters are brought before Commission

3. 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 that 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

Application

4. Sections 30 to 32, subsection 33(4) and section 34 apply to a proceeding arising from an application listed in Schedule 1.

General Rules

Powers of the Commission

Power to act

5. (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

6. 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 with the Commission, the software to be used to file them and the procedure for their filing.

Dispensing with or varying Rules

7. If the Commission is of the opinion that considerations of public interest or fairness permit, it may dispense with or vary these Rules.

Return of application or complaint

8. 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

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

Other powers

10. 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

11. 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

12. (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 5:00 p.m., Vancouver 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

13. (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

Broadcasting and Telecom 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 public hearing

(2) When a public hearing of the Commission is in progress, a document may also be filed with the Commission 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 180 days after the day on which it is filed.

Alternative format

14. (1) A person with a disability or their designated representative may request that a party whose document has been posted on the Commission's website file the document with the Commission in the alternative format specified by the person or representative. The request must be served on the party within five days after the day on which the document was posted.

Response to request

(2) Within five days after the day on which a party was served with the request, the party must file with the Commission and serve on the person or representative

(a) the document in the specified alternative format or in an alternative format that was agreed to by the person or representative; or

(b) the reasons why the party cannot file the document in an alternative format.

Reply

(3) Within five days after the day on which the person or representative was served with the document or the reasons, they may file a reply with the Commission.

Request of Commission

(4) Failing an agreement between the person or representative and the party, the Commission may request the party to file the document with the Commission in the alternative format specified by the Commission and serve it on the person or representative.

Filing day

15. (1) A document is filed with the Commission

(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

16. (1) The Commission may order a person that has filed a document with it 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

17. 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 with the Commission.

Service of documents

18. 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 180 days after the day on which it is filed with the Commission.

Service day

19. 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

20. (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.

Notice of Consultation

Notice of consultation

21. (1) If a matter is brought before the Commission on the Commission's own initiative, 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) any deadline for filing a reply with the Commission;
 - (c) if the Commission will request any parties to appear before it, the date and time of the commencement of the public hearing and the place of the hearing, which in telecommunications matters is fixed by the Chairperson of the Commission; and

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.

(d) in telecommunications matters, any permission granted by the Commission for a party to make a request for information from another party and the deadlines referred to in sections 73 to 76.

Application

Filing and service of application

22. (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 Broadcasting and Telecom Information Bulletin CRTC 2010-453, as amended from time to time. If none of the forms listed in the 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

23. The Commission must post on its website all applications that comply with the requirements set out in section 22.

Restrictions

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

Answer to Application

Deadline for filing answer

25. (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

26. (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 public hearing in person;
- (h) state any reasonable accommodation required to enable the person to participate in any future public 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

27. (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, 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 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

28. (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

29. (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 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

30. 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

31. (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

32. (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 from the disclosure would outweigh the public interest.

Abridged version

(2) The party must either file with the Commission 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

33. (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

34. (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 is an applicant and confirms the designation, the Commission must not disclose or require the disclosure of the information and the information is not admissible in evidence.

RULES APPLICABLE TO PUBLIC HEARINGS

Obligations of applicant

- 35.** (1) When a public hearing is held 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 a page of their own website that is accessible from the homepage of the 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, which 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 licensees and telecommunications service providers

(2) When a public hearing is held in respect of a regulatory policy, the Commission must determine, if it is in the public interest to do so, which licensees and telecommunications service providers must fulfill the obligations set out in subsection (1).

Notice of appearance

36. (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 the 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

37. The Commission may request the parties to appear prior to a public hearing before one of its members, as 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

38. (1) The Commission may, at the request of a party or on its own initiative, order a public 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 31.

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

39. (1) Sections 31 to 34 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, a 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 and, separately or distinctively, identify other information contained in the transcript that they are designating as confidential.

Order of appearance

40. 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

41. 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

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

Simultaneous sittings

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

Format of subpoena

44. A subpoena, which the Commission may refuse to issue, must be in the form set out in Schedule 2.

PART 2

RULES APPLICABLE TO COMPLAINTS AND DISPUTE RESOLUTION

Rules Applicable to Proceedings Initiated by a Complaint

Form and content of complaint

45. 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

46. 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

47. 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

48. 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

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

Copy placed on licensee's file

50. 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

51. (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.

Alternative Dispute Resolution Processes

Requirements to be followed

52. An application for the resolution of a matter under an alternative dispute resolution process must be made in accordance with the procedural requirements established by the Commission in Broadcasting and Telecom Information Bulletin CRTC 2009-38, dated January 29, 2009, as amended by Broadcasting and Telecom Information Bulletin CRTC 2009-38-1, dated April 26, 2010.

PART 3

RULES APPLICABLE TO CERTAIN BROADCASTING APPLICATIONS

Application for Issuance or Renewal of Licence or for Approval of Transfer of Ownership or Change in Control

Notice of consultation

53. (1) 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* or for the approval of the transfer of ownership or the change in control of a broadcasting undertaking, and must provide in the notice an electronic link to the application.

Service not required

(2) Paragraph 22(1)(b) does not apply to such an application.

Application considered an intervention

54. 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 26 and 27 do not apply.

Order of replies at public hearing

55. 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

Licensee considered applicant

56. 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 27, 35 and 40.

Licensee must be heard

57. 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 with the Commission.

PART 4

RULES APPLICABLE TO CERTAIN TELECOMMUNICATIONS APPLICATIONS

Application for Review of Canadian Ownership and Control

Procedural requirements

58. (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 Telecom Regulatory Policy CRTC 2009-428, as amended from time to time.

Non-application of certain provisions

(2) Paragraph 22(1)(b) and sections 23 and 25 do not apply to such an application.

Application to Approve or Amend Tariffs or to Approve an Agreement between Carriers

Procedural requirements

59. (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 Telecom Information Bulletin CRTC 2010-455, as amended from time to time.

Non-application of certain provisions

(2) Paragraph 22(1)(b) and sections 23 and 25 do not apply to such an application.

Application to Award Costs

Interim Costs

Application for interim costs

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

Content of application

61. (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

62. 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

63. The Commission must determine whether to award interim costs and the amount that is to be awarded on the basis of the following criteria:

- (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

64. 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

65. 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 with it.

Content of application for final costs

66. (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 Broadcasting and Telecom Information Bulletin CRTC 2010-453, as amended from time to time.

Service

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

Answer

67. 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

68. The Commission must determine whether to award final costs and the maximum percentage of costs that is to be awarded on the basis of the following criteria:

(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

69. 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

70. (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 a decision

71. (1) 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.

Extension of deadline

(2) The Commission may extend that deadline if it is of the opinion that it is just and equitable to do so.

Request for Information

Request for information

72. If the Commission is of the opinion that it is in the public interest to permit requests for information from one party to another, it may give that permission in the notice of consultation.

Filing and service

73. The requesting party must file a request for information with the Commission on or before the deadline established by the Commission in the notice of consultation and they must serve the request on the party to whom it is addressed.

Response to request

74. (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 in the notice of consultation and they must serve the response on all parties.

Request for further response

75. (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

76. (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

TRANSITIONAL PROVISION, REPEALS AND COMING INTO FORCE

Transitional Provision

Application

77. These Rules apply to matters that are brought before the Commission before the coming into force of these Rules.

Repeals

78. The *CRTC Rules of Procedure*¹ are repealed.

79. The *CRTC Telecommunications Rules of Procedure*² are repealed.

Coming into Force

April 1, 2011

80. These Rules come into force on April 1, 2011.

¹ C.R.C., c. 375

² SOR/79-554

SCHEDULE 1

(Sections 2 and 4)

BROADCASTING APPLICATIONS THAT GIVE RISE TO A PROCEEDING TO
WHICH THE RULES DO NOT APPLY

The following applications, if they do not raise any concerns with respect to Commission policies or regulations or conditions of licence:

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. Application by a licensee for revocation of the licensee's licence.
7. Share transfer application referred to in paragraph 9. of Broadcasting Circular CRTC 2008-8, dated November 21, 2008.

SCHEDULE 2

(Section 44)

THE CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS
COMMISSION

Re:

To:

You are required to attend before the Canadian Radio-television and Telecommunications Commission at a public hearing to be held 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 at this day of 20

Corporate Seal of

the Canadian Radio-television and Telecommunications Commission

THE CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION

by:

Secretary General