



Broadcasting and Telecom Notice of Consultation CRTC 2009-602

Ottawa, 30 September 2009

Call for comments on new draft regulations concerning CRTC Rules of Practice and Procedure

*The Commission calls for comments on new draft regulations entitled Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure which, when they come into force, will replace and repeal the CRTC Rules of Procedure and the CRTC Telecommunications Rules of Procedure. The Commission also calls for comment on a proposed Information Bulletin on electronic filings. The deadline for the receipt of comments is **17 December 2009**.*

Introduction

1. The Commission is proposing new draft regulations entitled *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure* (the Proposed Rules) which, when they come into force, will replace and repeal the *CRTC Rules of Procedure*¹ (the Broadcasting Rules) and the *CRTC Telecommunications Rules of Procedure*² (the Telecom Rules). A copy of the Proposed Rules is set out in Appendix 1 to this Notice of Consultation.
2. The Commission drafted the Proposed Rules with several objectives in mind. Because of increasing convergence in broadcasting and telecommunications services and industries, the Commission considers that the time has come to harmonize the Broadcasting and Telecommunications Rules. The exercise also provides the Commission with the opportunity to eliminate repetition and outdated rules³ and establish uniform rules for Commission proceedings wherever possible. It is also an opportunity to modernize and simplify the rules of procedure by making electronic means the preferred method of filing applications, by putting more emphasis on the Commission's website as the interface between the Commission and parties, and by removing unnecessary forms and schedules. Finally, the Proposed Rules provide an opportunity to introduce certain streamlined processes particularly as they relate to licence applications in broadcasting.
3. The Proposed Rules establish the procedures governing all proceedings before the Commission except for enquiries leading to the imposition of administrative monetary penalties under sections 72.01 to 72.15 of the *Telecommunications Act*⁴ (section 3(2)).

¹ C.R.C., c. 375

² SOR/79-544

³ For example, section 3(3) of the Broadcasting Rules allows applications to be sent by telegram.

⁴ S.C. 1993, c. 38

4. In some cases, the *Telecommunications Act* establishes a procedure while the *Broadcasting Act*⁵ does not. Where this happens, the Proposed Rules establish the rule of procedure for broadcasting proceedings but also provide a “note” under the section identifying the equivalent provision in the *Telecommunications Act*.
5. The Proposed Rules also incorporate by reference a number of procedural requirements previously established in Commission documents. This incorporation by reference eliminates the need to repeat the entire procedure already established in another Commission document, which would make the Proposed Rules unnecessarily long.

Structure and content of the Proposed Rules

6. The Proposed Rules are in four parts. The first two parts (Part 1 and 2) apply to both broadcasting and telecommunications proceedings. The other two parts apply specifically to the broadcasting sector (Part 3) or the telecommunications sector (Part 4), where the two Acts result in unique procedural requirements.

Part 1 – General rules

7. The provisions of Part 1 apply in all proceedings covered by the Proposed Rules unless specifically overridden by another Part of the Proposed Rules or by a Commission document, such as a Notice of Consultation or direction on procedure. Accordingly, where Parts 2 to 4 or a Commission document are silent on a certain procedural matter, the rules set out in Part 1 apply.
8. The general rules in Part 1 establish, among other things,:
 - a) the Commission’s powers regarding proceedings, including the power to issue information bulletins and procedural directives; suspend or amend rules; return incomplete applications or complaints; adjourn, suspend, close or combine proceedings; and determine the admissibility of documents or parts of documents (sections 4 to 9);
 - b) the rules for computing time (section 10);
 - c) the proper way of filing and serving documents (sections 11 to 18);
 - d) the content, deadline, filing and service requirements applicable to applications, responses, interventions and replies (sections 19 to 22);
 - e) whether a party is required to submit proof of authority to represent another person or to submit any other information, particulars or documents that the Commission considers necessary (sections 23 and 24);

⁵ S.C. 1991, c. 11

- f) the ability of a party to request disclosure of documents referred to in a document filed with the Commission and the inability of a party refusing to produce a requested document to rely on it (section 25);
 - g) the form for notices to appear (section 26 and schedule);
 - h) the procedure for designating information filed with the Commission as confidential in proceedings, and for determining whether that information has to be disclosed (sections 27 to 30); and
 - i) the rules applicable to public hearings (sections 31 to 33).
9. Part 1 sets out the following general procedure: after an application⁶ is filed with the Commission by electronic means,⁷ respondents⁸ have 30 days to respond in writing and interveners have 30 days to intervene in writing, except in cases of applications for the amendment of broadcasting licences where the deadline for interventions is 40 days. At the end of the 30 days (or 40 days), the applicant has 10 days to reply (Part 1 process). All applications subject to the Part 1 process will be posted on the CRTC website as expeditiously as possible.
10. The Commission intends to apply the Part 1 process to, among other things, the following applications:
- a. applications that were, in the past, filed under Part VII of the current Telecom Rules, more specifically:
 - i. applications under section 27(2) of the *Telecommunications Act*;
 - ii. applications for exemption from the regulations under section 34 of the *Telecommunications Act* that do not raise major concerns;
 - iii. applications for approval of agreements under section 29 of the *Telecommunications Act*;
 - iv. applications on limitations for liability under section 31 of the *Telecommunications Act*;
 - v. applications related to conditions on the provision of telecommunications services under section 24 of the *Telecommunications Act*;
 - vi. applications to connect any telecommunications facilities to any other telecommunications facilities under section 40 of the *Telecommunications Act*;
 - vii. applications to have the Commission review, vary or rescind any of its decisions under section 62 of the *Telecommunications Act*;and

⁶ Applicants must use the electronic forms available on the Commission's website (section 19(2)).

⁷ A proposed information bulletin containing details of the procedure for electronic filing of applications is attached to this notice as Appendix 2.

⁸ "Respondent" is a concept that is used more in telecommunications than in broadcasting. Unless there is a dispute involving specific parties, the concept of respondent is very rarely used in broadcasting.

- viii. applications for stays or other interim relief;
 - b. tariff applications from incumbent local exchange carriers applicable to services to competitors under section 24 of the *Telecommunications Act*;
 - c. applications for amendments to a broadcasting licence under paragraph 9(1)(c) of the *Broadcasting Act*. (This marks an important change. Instead of publishing a Notice of Consultation announcing applications and the procedure to be followed, each application for licence amendment will be posted individually on the CRTC website and will be subject to the Part 1 Process);
 - d. applications under section 9 of the *Broadcasting Distribution Regulations*.
- 11. It is, however, always open to the Commission to suspend or augment the Part 1 process by issuing a Notice of Consultation if it believes that a different or additional written process or an oral hearing is required. This could occur in any of the above mentioned types of applications, where the Commission considers that the specific circumstances of the application warrant such action. Proceedings initiated by the Commission, including policy reviews and show cause hearings, would also involve the issuance of a Notice of Consultation. In these cases, again, the rules of general application set out in Part 1 would apply unless the Notice of Consultation specifically states otherwise.

Part 2 – Rules applicable to complaints and dispute resolution

- 12. Part 2 of the Proposed Rules contains the rules applicable to proceedings resulting from a complaint or an application to settle a matter using an alternative dispute resolution process in either broadcasting or telecommunications. The general rules set out in Part 1 continue to apply unless overridden by a specific rule set out in Part 2 or by the Commission in a Notice of Consultation or direction concerning procedure.
- 13. Division 1 is designed for complaints by consumers about their broadcasting and telephone services. Generally, complaints from telecommunications service providers and broadcasting undertakings should be filed under the process set out in Part 1 or by means of an application to settle a matter using an alternative dispute resolution process under section 42 of Part 2.
- 14. The content of the complaint must be in the form set out in this Part (section 35).
- 15. When a complaint is filed with the Commission, the Commission may request that the complaint be filed as an application or intervention under another Part of the Rules. Alternatively, the Commission may forward the complaint to the person concerned, who will then have 20 days to respond (sections 36 to 38).

16. The Commission may then, depending on the response, take such other measures as it deems necessary. In broadcasting matters, the Commission may also place the complaint and any response on the file of a broadcasting licensee for consideration at the time of licence renewal (sections 39 and 40).
17. In urgent cases involving immediate disconnection of telecommunications services, a complaint can be made orally to a designated Commission employee. In such cases, the Commission can issue an interim order *ex parte*, but a written complaint must be filed within five days of the order (section 41).
18. Applications to settle a matter using an alternative dispute resolution process must follow the procedural requirements established in Broadcasting and Telecom Information Bulletin 2009-38, as amended from time to time, to the extent such requirements differ from the rules set out in Part 1 (section 42), unless the Commission issues a procedural direction to the contrary.

Part 3 – Rules applicable to certain broadcasting proceedings

19. Part 3 of the Proposed Rules establishes the rules applicable to certain applications filed under the *Broadcasting Act*.
20. This Part states that approval of a transfer of ownership or control under the *Broadcasting Act* must follow the procedural requirements established in Broadcasting Circular 2008-8, as amended from time to time, to the extent they differ from the rules set out in Part 1 or in a Notice of Consultation or direction concerning procedure (section 43).
21. This Part also contains specific rules applicable to applications for new licences and for licence renewals (section 44).
22. In these cases, after the application is filed, the Commission will post a Notice of Consultation on its website establishing the intervention deadline (section 45). If the deadline for replies is not established in the Notice of Consultation, the applicant must follow the general rule established in section 22 of Part 1, as amended by section 49 of Part 3.
23. If the application is subject to a public hearing, the applicant must post the Commission's Notice of Consultation on its website. The Commission may also require, in the Notice of Consultation, that the applicant provide additional notice (e.g. through personal service or broadcasts on the licensee's facilities) (section 46).
24. This Part also establishes that, once the Notice of Consultation is posted on the Commission's website, no application under section 44 can be amended and no additional documents can be filed with the Commission (section 47) unless the Commission varies the rule through a Commission document.

25. Competing applications for new licences are treated as interventions submitted with respect to other applications (section 48). During public hearings for competing applications, applicants reply in reverse order to the order in which the applications were presented during the hearing (section 50(2)).

Part 4 – Rules applicable to certain Telecommunications proceedings

26. Part 4 of the Proposed Rules establishes the rules applicable to certain applications filed under the *Telecommunications Act*.
27. This Part states that certain tariff applications will follow the procedures established in decisions referred to in the Proposed Rules to the extent they differ from the rules established in Part 1.
28. More specifically, applications for approval of retail and competitive local exchange carrier tariffs other than applications related to destandardization or withdrawal of a service are made in accordance with the procedural requirements established by the Commission in Telecom Decision 2008-74, as amended from time to time (section 52(1)).
29. Applications for tariff approval related to destandardization or withdrawal of a service are made in accordance with the procedural requirements established by the Commission in Telecom Decision 2008-22, as amended from time to time (section 52(3)).
30. Applications for approval of incumbent local exchange carrier tariffs applicable to services to competitors, other than applications related to destandardization or withdrawal of a service, must follow the process established in Part 1 and are filed with the Commission at least 30 days prior to the proposed effective date of the tariff (subsection 52(2)).
31. This Part also establishes the rules of procedure for applications related to interim and final costs, including the criteria the Commission will use in awarding interim and final costs and fixing or taxing these costs (sections 53 to 66).
32. Lastly, this Part establishes the procedure to be followed where the Commission allows the parties to exchange requests for information in a telecommunications proceeding (sections 67 to 71).

Call for comments

33. The Commission calls for comment on the proposed *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*, made under the *Broadcasting Act* and the *Telecommunications Act*, as well as the proposed information bulletin concerning electronic filings, which are set out in Appendix 1 and Appendix 2 to this notice, respectively.

34. Parties should structure their comments around the four parts of the Proposed Rules. The deadline for filing comments is **17 December 2009**.
35. The Commission will only accept submissions that it receives on or before the prescribed date noted above.

Procedures for filing comments

36. Interested parties can file their comments to the Secretary General of the Commission:

- **by using the**
[Broadcasting Intervention/Comments Form](#)

OR

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

OR

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

37. Submissions longer than five pages should include a summary.
38. Please number each paragraph of your submission. In addition, please enter the line ***End of document*** following the last paragraph. This will help the Commission verify that the document has not been damaged during transmission.

Important notice

39. Note that all information provided 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, becomes part of a publicly accessible file and will be posted on the Commission's website. This information includes your personal information, such as your full name, e-mail address, postal/street address, telephone and facsimile number(s), and any other personal information you provide.
40. The personal information you 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.
41. Documents received electronically or otherwise will be put on the Commission's website in their entirety exactly as you send them, 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.

42. Please note that the information provided 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 webpage of this particular public process. As a result, a general search of our website with the help of either our own search engine or a third-party search engine will not provide access to the information which was provided as part of this public process.
43. 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 public comments and related documents at the following
Commission offices during normal business hours**

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

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

Central Building
Les Terrasses de la Chaudière
1 Promenade du Portage, Room 206
Gatineau, Quebec K1A 0N2
Tel.: 819-997-2429
Fax: 819-994-0218

Metropolitan Place
99 Wyse Road
Suite 1410
Dartmouth, Nova Scotia B3A 4S5
Tel.: 902-426-7997
Fax: 902-426-2721

205 Viger Avenue West
Suite 504
Montréal, Quebec H2Z 1G2
Tel.: 514-283-6607

55 St. Clair Avenue East
Suite 624
Toronto, Ontario M4T 1M2
Tel.: 416-952-9096

Kensington Building
275 Portage Avenue
Suite 1810
Winnipeg, Manitoba R3B 2B3

Tel.: 204-983-6306
TDD: 204-983-8274
Fax: 204-983-6317

2220 - 12th Avenue
Suite 620
Regina, Saskatchewan S4P 0M8
Tel.: 306-780-3422

10405 Jasper Avenue
Suite 520
Edmonton, Alberta T5J 3N4
Tel.: 780-495-3224

530-580 Hornby Street
Vancouver, British Columbia V6C 3B6
Tel.: 604-666-2111
TDD: 604-666-0778
Fax: 604-666-8322

Secretary General

Related documents

- *Practices and procedures for staff-assisted mediation, final offer arbitration, and expedited hearings*, Broadcasting and Telecom Information Bulletin CRTC 2009–38, 29 January 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
- *Approval mechanisms for retail and CLEC tariffs* – Regulatory policy, Telecom Decision CRTC 2008-74, 21 August 2008
- *Mandatory customer contract renewal notification and requirements for service destandardization/withdrawal*, Telecom Decision CRTC 2008-22, 6 March 2008

This document is available in alternative format upon request and may also be examined in PDF format or in HTML at the following Internet site: <http://www.crtc.gc.ca>.

Appendix 1 to Broadcasting and Telecom Notice of Consultation CRTC 2009-602

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

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" includes an intervener.

"person"

« *personne* »

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

MATTERS BEFORE THE COMMISSION

How matters brought before Commission

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

PART 1

RULES APPLICABLE TO BROADCASTING AND TELECOMMUNICATIONS PROCEEDINGS

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*.

DIVISION 1

GENERAL RULES

Powers of the Commission

Power to act

4. 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.

Information bulletins

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

- (a) the application of these Rules and its regulatory policies and decisions; and
- (b) the format and numbering of documents to be filed, the software with which they may be filed 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, the Commission may dispense with or vary these Rules including by way of directions.

Defect in form

7. (1) If an application or complaint does not comply with a requirement of these Rules, the Commission may either 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.

Application or complaint not dismissed

(2) However, no application or complaint may be dismissed by reason solely of a defect in form.

Other powers

8. 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 the opinion of the Commission, may tend to prejudice a party or delay the hearing of the matter on the merits;
- (e) provide an opportunity for parties to make written or oral representations; and
- (f) in the event of a reference to the Federal Court, order the whole or any part of a proceeding to be stayed pending the decision on the reference.

Relief

9. In broadcasting matters, the Commission may approve the whole or any part of an application or grant any other 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

10. (1) The computation of a time period set out in these Rules or in an information bulletin, direction, notice or decision is governed by sections 26 to 29 of the *Interpretation Act*, except that Saturday is also considered to be a holiday.

Calendar days

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

Filing and Service of Documents

Filing of documents

11. (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 set out in an information bulletin issued by the Commission and that permits its intelligible reception; and
- (b) in the case of any other document, by delivering it by hand to the Office of the Secretary General, or by 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 a written record of the transmission.

Alternative formats

12. The Commission may, on its own initiative or at the request of a person with disabilities or their designated representative, order that a document be filed in an alternative format and may require that the document be served on the person or, if the person is not a party, that it be provided to that person.

Filing date

13. (1) A document is filed

- (a) if it is delivered by hand, on the date it is delivered;
- (b) if it is sent by mail, on the date it is received by the Office of the Secretary General; and
- (c) if it is sent by electronic means, on the date it is transmitted or, if the Office of the Secretary General does not receive the document on that date, on the date that it establishes it received it.

Saturday or holiday

(2) A document received on a Saturday or a holiday, as that word is defined in subsection 35(1) of the *Interpretation Act*, is considered to be received on the next business day.

Verification of documents

14. (1) The Commission may order a person who has filed a document to verify the document by affidavit and, in case of refusal, it may strike out the document.

Grounds

(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

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

Service of documents

16. A document must be served on a person

- (a) by delivering a copy of the document by hand
 - (i) to an individual, or
 - (ii) if the person is a partnership, body corporate or unincorporated organization, to a partner, an officer or a 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 a written record of the transmission.

Service date

17. Service of a document is effected

- (a) if it is delivered by hand, on the date it is delivered;
- (b) if it is sent by mail, on the date it is received; and
- (c) if it is sent by electronic means, on the date it is transmitted or, if the recipient does not receive the document on that date, on the date that they establish that they received it.

Proof of service

18. (1) At the request of the Commission, 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 e-mail address of the person who served the document;
 - (b) the date on which the document was delivered by hand or sent by mail or electronic means and, if it was sent by electronic means, the time of transmission; 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 who sent it.

Application

Filing and service of application

19. (1) An application must

- (a) be filed with the Commission;
- (b) be served on any respondent and any other persons that the Commission may direct; and
- (c) be accompanied by a list of the persons on whom the application is served and the e-mail address of each, if any.

Form and content of application

(2) An application must be made by means of the form provided on the Commission's website. If none is provided, the application must

- (a) set out the name and address of the applicant and any designated representative and the e-mail address of each;
- (b) set out the applicant's website address or, if the application is not posted on their website, the place where it may be consulted;
- (c) be divided into parts and consecutively numbered paragraphs;
- (d) identify the statutory or regulatory provisions under which the application is made and the nature of the decision sought;
- (e) contain a clear and concise statement of the relevant facts and the grounds of the application;
- (f) set out any amendments or additions that the applicant proposes to make to these Rules; and
- (g) include any other information that may inform the Commission as to the nature, purpose and scope of the application and be accompanied by any documents that support the application.

Answer to an Application

Deadline for filing answer

20. (1) A respondent may file an answer with the Commission within 30 days after the date on which the application is filed.

Form and content of answer

(2) The answer must

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

Intervention

Deadline for intervening

21. (1) Any interested person may intervene in writing in a proceeding within the time period set out in the notice of consultation posted by the Commission on its website or, if no notice was posted

- (a) within 30 days after the date on which the application is filed; and
- (b) in the case of an application for the amendment of a licence to carry on a broadcasting undertaking, within 40 days after that date.

Form and content of document

(2) The document of the intervener must

- (a) describe the interest of the intervener;

- (b) set out the name and address of the intervener and any designated representative and the e-mail address of each;
- (c) be divided into parts and consecutively numbered paragraphs;
- (d) clearly state whether the intervener supports or opposes the application, or is commenting on the application, and any modifications that the intervener proposes to the decision sought;
- (e) admit or deny any or all of the facts alleged in the application;
- (f) contain a clear and concise statement of the relevant facts and the grounds on which the intervener's support for, opposition to or proposed modification to the decision sought is based;
- (g) state whether the intervener wishes to participate in any possible hearing in person;
- (h) state any reasonable accommodation required to enable the intervener to participate in any possible hearing;
- (i) include any other information that may inform the Commission as to the nature, purpose and scope of the intervention and be accompanied by any documents that support the intervention;
- (j) be accompanied by a list of the persons on whom the document is served and the e-mail address of each, if any; and
- (k) be served on the applicant and any other persons that the Commission may direct.

Reply

Deadline for filing reply

22. (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 later of the deadline for the filing of the answer and the deadline for intervening in writing in the proceeding.

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 any or all of the facts alleged in the answer or the document;
 - (c) state the grounds of objection or opposition, if any, to any 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 e-mail address of each, if any; and
 - (e) be served on any respondent, the interveners and any other persons that the Commission may direct.

Request for Information or Documents

Acting on behalf of another person

23. A person who acts on behalf of another person must file with the Commission, if it so requests, evidence of their authority to represent the other person.

Requirement for information and representations

- 24.** The Commission may require a party
 - (a) to provide information, particulars or documents that it considers necessary to enable the Commission to obtain 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.

Request for documents

25. (1) A party may request any other party in writing to produce for inspection, by the requesting party, any document that has been referred to in a document filed with the Commission by that other party 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 who fails to produce the document within 10 days after the date on which the request is filed may not rely on the document.

Deemed production

(4) A party who produces an electronic copy of the document or provides an electronic address or link to the specific location where the document may be accessed free of charge is deemed to have produced the document and to have permitted the requesting party to make copies of it.

Subpoena

Format of subpoena

26. A subpoena — which the Commission may refuse to issue — must be in the form set out in the schedule and must be signed by the Secretary General and sealed with the Commission's seal.

Confidential Information

Obligation to file in order to designate

27. In broadcasting matters, a person may not designate information as confidential unless they file it with the Commission.

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

Timing of designation

28. (1) A person who wants to designate information that is being filed with the Commission as confidential must do so at the time it is filed.

Reasons for designation

(2) The person 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

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

Documents public

(4) In broadcasting matters, the Commission must make available for public inspection the reasons and supporting documents to the extent that they are not designated as confidential.

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

Request for disclosure

29. (1) A person who 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 person must serve the request on the person who made the designation.

Reply

(3) The person who made the designation may file a reply with the Commission within five days after the date on which the request is filed. They must serve it on the requesting person.

Reply to request from Commission

(4) If the Commission requests disclosure of the information, the person who made the designation may file a reply with the Commission within five days after the date on which they receive the request.

Disclosure

30. 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, except if, on request of an applicant, the Commission agrees to not take the information into account to dispose of the application.

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

DIVISION 2

RULES APPLICABLE TO PUBLIC HEARINGS

Appearance or written representations

31. If a public hearing is to be held in regard to an application, the Commission may request the parties, or some of them, to appear before it or decide the matter on the basis of written representations, or it may use a combination of those methods.

Administering of oaths

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

Simultaneous sittings

33. The Commission may, in relation to one proceeding, hold simultaneous sittings in more than one location.

PART 2

RULES APPLICABLE TO COMPLAINTS AND DISPUTE RESOLUTION

DIVISION 1

RULES APPLICABLE TO PROCEEDINGS INITIATED BY A COMPLAINT

Application

34. This Division applies to any proceeding that is initiated by a complaint that is not related to an application.

Form and content of complaint

35. A complaint must

- (a) be filed with the Commission;
- (b) set out the name and address of the complainant and any designated representative and the e-mail 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

36. 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 writing in any proceeding relating to the matter raised by the complaint.

Sending complaint to person against whom complaint is made

37. If the Commission is considering the complaint, it must send a copy of the complaint to the person against whom it is made.

Response

38. The person against whom a complaint is made may file a response with the Commission within 20 days after the date on which they received a copy of the complaint. They must serve it on the complainant.

Measures

39. If a response is not satisfactory to the Commission, it may take any measures that it considers necessary.

Copy placed on licensee file

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

Emergency telecommunications complaint

41. (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.

Filing complaint in writing

(3) If an interim *ex parte* order is issued, the complainant must file its complaint with the Commission in writing within five days after the date on which the order is issued.

DIVISION 2

ALTERNATIVE DISPUTE RESOLUTION PROCESSES

Requirements to be followed

42. 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, as amended from time to time.

PART 3

RULES APPLICABLE TO CERTAIN BROADCASTING PROCEEDINGS

DIVISION 1

APPLICATIONS FOR THE CHANGE OF OWNERSHIP OR CONTROL OF A BROADCASTING UNDERTAKING

Requirements to be followed

43. An application to the Commission for the approval of the transfer of ownership or the change in control of a broadcasting undertaking must be reviewed in accordance with the procedural requirements established by the Commission in Broadcasting Circular CRTC 2008-8, as amended from time to time.

DIVISION 2

APPLICATION FOR THE ISSUANCE OR RENEWAL OF A LICENCE

Application

Application

44. This Division applies to any proceeding that is initiated by an application to the Commission for the issuance or renewal of a licence under subsection 9(1) of the *Broadcasting Act*.

Notice of Consultation

Posting of notice of consultation

45. (1) The Commission must post any notice of consultation — whether a notice of application or a notice of public hearing — on its website.

Content of notice

(2) The notice must indicate the nature of the matters to be considered and the deadline for intervening in writing in the proceeding. In the case of a notice of public hearing, it must also indicate the time and place of the hearing.

Obligations of applicant

- 46.** If a public hearing is to be held in regard to an application, the applicant must
- (a) no later than five days after the posting of the notice of consultation by the Commission on its website, post the notice or a link to it on the homepage of its website and keep it posted until the deadline for intervening in writing in the proceeding expires; and
 - (b) give notice of the notice of consultation in any manner that the Commission may direct, including through broadcast over its own facilities or by service to any person the Commission may direct, and the notice must indicate
 - (i) the date fixed for the commencement of the hearing,
 - (ii) the nature of the matters to be considered, and
 - (iii) the deadline for intervening in writing in the proceeding.

Amendment

47. No application referred to in section 44 may be amended and no supplementary document may be filed with the Commission after the Commission has posted the notice of consultation on its website.

Intervention

Deemed intervention

48. 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 deemed to be an intervention in respect of the others but sections 21 and 22 do not apply.

Reply

Reply

49. The applicant must serve a reply on the interveners.

Appearance

Order of appearance

- 50.** (1) The parties must be heard in the following order at a public hearing:
- (a) applicants;
 - (b) interveners; and
 - (c) applicants, in reply.

Order of replies

(2) If the 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.

PART 4

RULES APPLICABLE TO CERTAIN TELECOMMUNICATIONS APPLICATIONS

DIVISION 1

APPLICATIONS TO APPROVE OR AMEND TARIFFS

Application

51. This Division applies to applications to the Commission for the approval of a new or amended tariff under section 25 of the *Telecommunications Act*.

Requirements to be followed

52. (1) An application for the approval of a retail service tariff or a competitive local exchange carrier tariff, other than one that relates to service destandardization or withdrawal, must be made in accordance with the procedural requirements established by the Commission in Telecom Decision CRTC 2008-74, as amended from time to time.

Tariffs applicable to competitors

(2) An application for the approval of an Incumbent Local Exchange Carrier competitor service tariff, other than one that relates to service destandardization or withdrawal, must be filed with the Commission at least 30 days before the date on which the tariff is proposed to come into effect.

Destandardization or withdrawal of service

(3) An application for the approval of a tariff that relates to service destandardization or withdrawal must be made as an application for service destandardization or withdrawal in accordance with the procedural requirements established by the Commission in Telecom Decision CRTC 2008-22, as amended from time to time.

DIVISION 2

APPLICATIONS TO AWARD COSTS

Application

Application

53. This Division applies to applications to the Commission to award costs under section 56 of the *Telecommunications Act*.

Interim Costs

Application for interim costs

54. A party who 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.

Content of application

55. (1) In an application for interim costs, an applicant must

(a) demonstrate

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

(ii) that they can contribute to a better understanding by the Commission of the matters to be considered, and

(iii) that they 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 being attached; and

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

Service

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

Answer

56. The other parties may file an answer with the Commission within 10 days after the date on which the application for interim costs is filed. They must serve it on all parties.

Reply

57. The applicant must serve any reply on the parties who filed an answer.

Criteria for awarding interim costs

58. The Commission must use the following criteria to determine whether to award interim costs and the amount that will 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 contribute to a better understanding by the Commission 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

59. A party who has been awarded interim costs is required to file an application for final costs with the Commission.

Final Costs

Deadline

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

Content of application for final costs

- 61.** (1) In an application for final costs, an applicant must
- (a) demonstrate
 - (i) that they have, or represent a group or a class of subscribers that has, an interest in the outcome of the proceeding,
 - (ii) that they contributed to a better understanding by the Commission of the matters that were considered, and
 - (iii) that they participated in the proceeding in a responsible way;
 - (b) identify the respondents who 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 applied for.

Documents to be attached

(2) The applicant must attach to the application the taxation forms provided on the Commission's website.

Service

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

Answer

62. The other parties may file an answer with the Commission within 10 days after the date on which the application for final costs is filed. They must serve it on all parties.

Reply

63. The applicant must serve any reply on the parties who filed an answer.

Criteria for awarding final costs

- 64.** The Commission must use the following criteria to determine whether to award final costs and the maximum percentage of costs that will 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 contributed to a better understanding by the Commission of the matters that were considered; and
 - (c) whether the applicant participated in the proceeding in a responsible way.

Taxing officer

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

Fixing and Taxing of Costs

Criterion for fixing and taxing costs

66. (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

Filing and service

(3) The responding party must file a response with the Commission on or before the deadline established by the Commission. They must serve it on all parties.

Request for further response

70. (1) A requesting party may, with the approval of the Commission, 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 a request with the Commission on or before the deadline established by the Commission. They must serve it on the party from whom the response is requested.

Response

71. (1) A party who 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 either 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 the party considers would 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. They must serve it on the requesting party.

PART 5

REPEALS AND COMING INTO FORCE

REPEALS

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

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

COMING INTO FORCE

Registration

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

¹ C.R.C., c. 375

² SOR/79-554

SCHEDULE
(section 26)

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 at the time and place

Dated this day of 20

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

Commission by:

EXPLANATORY NOTE

(This note is not part of the Rules.)

The Rules set out the converged rules of practice and procedure that will govern all proceedings before the Canadian Radio-television and Telecommunications Commission ("CRTC") except for investigations leading to the imposition of administrative monetary penalties pursuant to 72.01 to 72.15 of the *Telecommunications Act*, S.C. 1993, c. 38. The Rules replace the *CRTC Rules of Procedure*, C.R.C., c. 375, previously applicable in broadcasting proceedings and the *CRTC Telecommunications Rules of Procedure*, SOR/79-554, previously applicable in telecommunications proceedings.

In certain instances, the *Telecommunications Act* provides for a procedural rule while the *Broadcasting Act*, S.C. 1991, c. 11, does not. In these cases, the Rules set out the rule in broadcasting proceedings but provide a note indicating where the equivalent provision can be found in the *Telecommunications Act*.

Part I sets out the general rules applicable to all CRTC proceedings except as otherwise provided in the Rules. These rules outline, amongst other things:

(a) the Commission's powers in relation to proceedings, including the power to issue information bulletins and procedural directions, return applications with deficiencies, adjourn, stay, close or combine proceedings, decide on the admissibility of documents or parts of documents;

(b) the rules for the computation of time;

(c) the rules for determining the proper manner to file and serve documents;

(d) the content, deadlines for filing, and requirements for service, of applications, answers, interventions, and replies;

(e) the possibility for a person to be required to file evidence of authority to represent another person;

(f) the ability of a party to request production of documents referenced in a document filed with the Commission and the inability of the party who filed the document to rely upon it if the referenced document is not produced;

(g) the form of subpoenas;

(h) the procedure for designation of information filed with the Commission during a proceeding as

confidential, and for determining whether the information will be disclosed;

(i) whether the Commission will determine the matter based on oral or written representations;

(j) the possibility for a party to be examined under oath at a public hearing; and

(k) the ability of the Commission to hold simultaneous sittings of a public hearing in more than one location.

Part II of the Rules provides rules specific to proceedings initiated by complaints in both broadcasting and telecommunications. Pursuant to this Part, the Commission may require a complaint to be filed as an application or intervention under another Part of the Rules or the Commission can forward the complaint to the person against whom the complaint is made, who will then have 20 days to respond. Depending on the response, the Commission can then take any other measures it considers necessary and can place the complaint and any response on the file of a licensee. In telecommunications, a complaint seeking relief on an emergency basis can be made orally to a designated employee of the Commission. The Commission can therefore issue an interim *ex parte* order, after which a written complaint must be filed with the Commission. Proceedings which will be resolved by staff-assisted mediation, final offer arbitration and expedited hearings will follow the procedural rules established in *Broadcasting and Telecom Information Bulletin CRTC 2009-38*, to the extent they are different from those in Part I.

Part III of the Rules provides rules specific to certain applications made pursuant to the *Broadcasting Act*. This Part provides that applications for the approval of a transfer of ownership or control made under the *Broadcasting Act* will be reviewed in accordance with the procedural requirements set out in *Broadcasting Circular CRTC 2008-8*, to the extent they are different from Part I. The Part also sets rules specific to applications for the issuance or renewal of a licence, including information to be provided in a notice of consultation by the Commission and by the licensee, with an emphasis on posting of the information on the Internet. For competitive licensing hearings, this Part provides that competing applications are deemed interventions in each others' application and competitors reply in reverse order to that in which they were heard at the oral hearing. Finally, the Part provides that no application shall be amended or supplementary documents filed after the Notice of Consultation is posted on the Commission website.

Part IV of the Rules provides rules specific to certain matters under the *Telecommunications Act*. This Part provides that certain tariff applications will follow the procedures set out in specified decisions, to the extent that they are different from Part I. In addition, this Part stipulates that ILEC competitor services tariffs must be filed at least 30 days before the proposed effective date. This Part also sets out the procedure for applications for interim and final costs, including the criteria to be used by the Commission in awarding those costs. Finally, this Part provides the procedure to be followed when the Commission permits parties to ask interrogatories of each other as part of a telecommunications proceeding.

Appendix 2 to Broadcasting and Telecom Notice of Consultation CRTC 2009-602

Proposed Information Bulletin concerning electronic filings

Electronic filing of applications

1. On 5 July 2005, the Commission issued Broadcasting Circular 2005-466 informing applicants in broadcasting that they were required to file their application and all related documents in electronic form using Epass.
2. On 11 June 2007, the Commission issued Telecom Circular 2007-16 informing applicants in telecommunications, among other things, that they must file all Parts II, IV and VII applications on an electronic basis, using Epass.
3. In addition to allowing secure transmissions to the Commission, Epass authenticates the applicant's identity when filing information. Epass will also ensure that messages or documents transmitted on-line are not altered.
4. Beginning on (date of the new rules) and pursuant to section 11(1)(a) of the new *Canadian Radio-television and Telecommunications Commission Rules of Practice and Procedure*, applicants will be required to file their broadcasting and telecommunications applications and all related documents in electronic form using Epass. Applicants who file their applications in this manner will no longer be required to submit a hard copy of the application and its related documents.
5. For instructions on how to file applications using Epass, consult the Commission's website at <http://www.crtc.gc.ca/eng/file.htm>.
6. Applicants who are unable to file their applications using Epass should contact the Commission at 1-877-249-CRTC (2782).

Confidential documents

7. Epass allows applicants to file both confidential and abridged public versions of the applications and any supporting documentation at the same time, on a secure basis.
8. Applicants must ensure that documents that they designate confidential are submitted in a separate electronic file and must incorporate *confidential* in the name of the file. It is incumbent upon applicants to clearly identify the confidential documents by indicating *confidential* on each page and, in such cases, to file an abridged version of the document.