

## British Columbia Utilities Commission

### The Public Hearing Process ~ why we have public hearings and how to participate

This following describes the public hearing process which includes:

- ~ the initial examination of an application,
- ~ the location(s) where the application documents may be viewed,
- ~ where hearings are to be held,
- ~ the roles of Commission Counsel and staff,
- ~ the sequence of procedures to be followed at the hearing, and
- ~ the final issuance of a decision by the Commission.

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#### *Types of Public Hearings*

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The Commission considers major applications through public hearings. Such applications include revenue requirements, rate design, certificates of public convenience and necessity (for significant new facilities or additions by utilities), and major energy projects or reviews assigned by the Lieutenant Governor in Council. Hearings may also be initiated by the Commission in response to a complaint by a customer or an affected third party.

#### *Alternative Dispute Resolution/Negotiated Settlement Process*

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Since the inception of the Alternative Dispute Resolution process in 1994, many utility applications have been resolved using this alternative method of reviewing utility filings. This process has led to a significant decrease in the number of oral public hearing days (see Appendix 9 - 1999 Annual Report)

and related costs. Guidelines outlining the Negotiated Settlement Process were issued by the Commission in January 1996 and updated in October 2000. The Commission continues to explore different methods of regulation that offer alternatives, or are complementary to its basic hearing structure. While not all applications made to the Commission are suited to the Alternative Dispute Resolution/Negotiated Settlement Process, a pre-hearing negotiation may be used to reach agreement on issues that traditionally would be examined at a public hearing. As a result, the settlement of certain issues can significantly reduce hearing time and costs.

### ***The First Step***

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Consideration of an application is initiated when a utility files such a document with the Commission Secretary. Once an application is filed, it becomes a public document and may be viewed by the general public. A utility will normally make copies of the application available in its district offices for public inspection.

### ***Order and Notice of Public Hearing***

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Once a decision has been made to hold a public hearing the Commission issues an Order and Notice of Public Hearing which is published in local newspapers in the service area of the utility.

This Order starts the public hearing process and contains information such as location, starting date, and intervention deadline dates. The Order often includes a list of issues that will be considered.

### ***Location of the Hearing***

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The Commission endeavours to conduct public hearings in locations where the public is most affected by the Applicant's request. Hearings may be held in different locations to accommodate local public interest in the service area of the utility. All hearings are open to the public.

### ***Availability of the Application***

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The hearing Order and Notice advises the public where the application may be examined, including relevant documents. The locations include the Commission's office, the head office of the Applicant and in the major district offices serving utility customers.

### ***Information Requests***

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Persons requiring additional information from the Applicant can make such a request prior to the commencement of the public hearing. The Applicant will then be required to respond, leaving enough time for the person to decide to become an intervenor or an interested party and participate in the public hearing.

### ***Interventions***

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An intervention is a document sent to the Commission to express an intention to participate in a public hearing. It may take the form of a formal legal submission, a position statement, or a hand-written letter submitted by a concerned customer. It is to be received by the Commission Secretary before the deadline stated in the hearing Order.

### ***Commission's Counsel***

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Commission Counsel has two main functions: (1) to advise the Commission Panel on legal matters and the conduct of the hearing; (2) to cross-examine the Applicant and intervenors in order to bring out clearly the evidence needed for the Commission Panel to arrive at a decision.

While the hearing procedures may initially seem overly formal, most public participants quickly become comfortable and effective intervenors. In that regard, it is important to recognize that legal representation is not necessary for effective intervention. Interested individuals and organizations usually become adept at preparing and defending evidence, as well as cross-examining witnesses.

### ***Commission Staff***

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The main role of the staff is to brief Counsel for cross-examination. Staff are also available to assist intervenors when requested.

### ***Record of the Proceedings/Court Reporters***

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The Commission makes verbatim transcripts for many public hearings. Transcripts are available for purchase from the court reporters, or are available for viewing at no charge in the Commission's Library in Vancouver or in the Resource Room while the hearing is underway.

### ***Sequence of Procedures at the Public Hearing***

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The Commission's public hearing process is relatively formal and is similar to that of a court. Testimony is provided by witnesses under oath or affirmation. Witnesses are subject to cross-examination. While most intervenors are represented by counsel, it is by no means essential for participants to have their own lawyer. It has often been the case that full participation has been made by members of the public at large who are not familiar with the process.

A pre-hearing conference conducted by Commission staff is sometimes held to resolve procedural questions before the start of the hearing and in some cases to clarify the scope of the hearing.

At the commencement of the hearing the Chairperson of the Commission Panel makes a brief opening statement on the application and make-up of the Panel. Next, the Applicant files proof of having complied with the Commission's requirements for publication of the hearing notice and service of copies of the application on various parties.

The Applicant then presents its case through a series of witnesses or panels of witnesses. After the Applicant's counsel has completed examination of each of the Applicant's witnesses or panels, each intervenor in turn is given the opportunity to cross-examine those witnesses. Commission Counsel usually cross-examines last. The Panel may then ask questions. The Applicant is given an opportunity to re-examine his witness. Intervenors may then present their own evidence through one or more witness panels. These panels can also be cross-examined.

After all parties have presented their evidence, the hearing enters the "final argument stage". The Applicant's argument is presented first; argument from the intervenors follows. Finally, the Applicant is given an opportunity to present reply argument. The Commission will decide whether to have final argument by way of oral presentations at the hearing, or in writing. Intervenors and the Applicant are

given a deadline for written argument.

Once all argument is finished, the formal hearing process is to allow the Panel to consider the evidence and make its decision.

### ***The Decision***

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The Hearing is concluded when the Commission Panel issues its decision on the application. The decision is based only on the evidence presented during the public hearing process.

Decisions of the Commission are available free of charge upon request and are sent to all participants in the public hearing.

### ***Commission Contact***

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For further information please contact the [Commission Secretary](#) in writing, by telephone, fax or e-mail.

***The following document can be downloaded from the Commission's web site or mailed upon request:***

~ [Understanding Utility Regulation: A Participant's Guide to the B.C. Utilities Commission](#) (Revised March 1999)