



Rules of Procedure and Practice

and

Rate Setting Guidelines

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UTILITY RATE REVIEW COUNCIL (URRC) Rules of Procedure and Practice

The Nunavut Utility Rates Review Council under Section 6(1) of the Utility Rates Review Council Act and every enabling power makes the following rules of procedure and practice.

Part I General

1. Interpretation of Rules

1.01 These Rules shall be liberally construed in the public interest to secure the most expeditious, just and least expensive determination on its merits of every proceeding before the Review Council.

2. Citation

2.01 These Rules may be cited as the Rules of Procedure and Practice for the Utility Rates Review Council.

3. Definitions

In these Rules,

“Act” means the Utility Rates Review Council Act;

“affidavit” means written evidence under oath or affirmation;

“applicant” when used in connection with a proceeding commenced by a request for advice as set out in section 7 of the Act, means the person who makes the application to the responsible Minister or another application to a Minister that is referred to the Review Council;

“application” means a written request to the responsible Minister or a Minister to exercise the Minister’s statutory powers in respect of matters referred to in the application;

“day” means calendar day;

“Direction” means a procedural direction issued by the Review Council under Rule 5;

“document” includes written documentation, films, photographs, charts, maps, graphs, plans, surveys, books of account, transcripts, videotapes, audio tapes, and information stored by means of an electronic storage and retrieval system;

“evidence” means information and material intended to be presented by a party as evidence to the Review Council, and may be in written, oral or electronic form;

“fax” means the telephone transmission of a facsimile;

“file” means file with the Secretary;

“holiday” means a Saturday, Sunday, statutory holiday, or any day that the Review Council’s offices are closed;

“interested party” means a person or organization which intends to participate in a proceeding to play a role regarding any issue raised by an application or any other matters properly before the Review Council, either by questioning other parties or by bringing forward their own evidence;

“interrogatory” means a request in writing for information or particulars made to a party in a proceeding;

“motion” means a request for a preliminary or interlocutory decision of the Review Council made in a proceeding;

“Minister” means the person or persons seeking advice from the review Council pursuant to Sections 7 or 13 of the Act;

“party” means the applicant or interested parties added or substituted by the Review Council as a party to a proceeding established to carry out its purposes under the Act;

“proceeding” means a process of review established by the Review Council to determine a matter over which the Review Council has jurisdiction;

“rate application” means an application for change in the price, toll or charge that applies to goods or services provided by a utility;

“Review Council” means the Utility Rates Review Council established by section 2 of the Act;



“Secretary” means the Review Council Secretary and any assistant Secretary;

“work day” means any day that the Review Council’s offices are open for business;

4. Application of the Rules

4.01 These Rules apply to all proceedings of the Review Council under the Act. or any other Act.

5. Procedural Directions

5.01 The Review Council may issue Directions which shall govern the conduct of a proceeding.

5.02 Where any matter of procedure or practice is not provided for by these Rules, the Review Council, at any time, issue a Direction to deal with the matter.

5.03 The Review Council may, on its own motion, or on application by a party in any proceeding, dispense with, vary or supplement these Rules.

5.04 Where there is a conflict between the Rules and a specific Direction given by the Review Council on procedure or practice, the Direction prevails over the Rules.

5.05 The Review Council may set time limits for doing anything provided for in these Rules.

5.06 To address the requirements of fairness the Review Council may, upon notice to the parties to a proceeding, shorten or extend the time fixed by these Rules for any action.

6. Failure to Comply

6.01 Where a party to a proceeding has not complied with a requirement of these Rules or a Direction, the Review Council may:

(a) issue any necessary Direction or other relief, on such conditions as the Review Council considers appropriate, to secure the just determination on their merits of the questions in issue;

(b) set aside a step, document or direction in the proceeding in whole or in part, where necessary in the public interest.

6.02 Where a party fails to comply with a time period for filing evidence or other material, the Review Council may, in addition to its powers set out in Rule 6.01, decide to disregard the evidence or other material which is filed late.

7. Defects or Irregularities in Form

7.01 No Review Council proceeding is invalid by reason of a defect or other irregularity in form.

8. Computation of Time

8.01 In the computation of time under these Rules or a Direction:

(a) where there is reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens; and

(b) where the time for doing an act under these Rules expires on a holiday or on a weekend, the act may be done on the next work day.

Part II Documents, Filing, Service

9. Issuance of Review Council Documents

9.01 The Review Council may issue Directions, notices, and other documents under the signature of the Secretary.

10. Form of Documents

10.01 Unless otherwise directed by the Review Council, every written document filed by a party in a proceeding shall be:

(a) prepared on letter size paper with each page numbered;

(b) printed, typed, written or reproduced legibly, on one or both sides of each page

10.02 Where a filing is made by electronic transmission, the materials filed must be compatible with the Review Council's equipment, software, and processes, and are to be in the form directed by the Review Council.



11. Filing and Service of Documents

11.01 A document may be filed or served by:

- (a) hand delivery;
- (b) courier service;
- (c) mail;
- (d) fax;
- (e) electronic transmission

11.02 Where a filing or service is made by fax or electronic transmission, the original and all copies required shall be filed or post marked by the next work day.

11.03 Any documents filed or served after 4:45 p.m. or on a holiday or on a weekend shall be considered served on the next working day.

11.04 Where the Review Council so directs, a party who has served a document shall file an affidavit of service that indicates how, when, and to whom service was made.

12. Public Record

12.01 Subject to Rule 13, all documents filed in respect of a proceeding shall be placed on the public record.

13. Confidential Documents

13.01 A party may, upon the filing of a document, request that all or any part of the document be held in confidence by the Review Council.

13.02 Any request for confidentiality shall:

- (a) include a summary of the nature of the information in the document;
- (b) address:
 - (i) the reasons for the request, including the details of the nature and extent of the specific harm that would result if the document were publicly disclosed; and
 - (ii) any objection to placing an abridged version of the document on the public record, and the reasons for such an objection; and

13.03 A request made under Rule 13.02 shall be placed on the public record.

13.04 Where a party has made a request under this Rule, the document, if filed with the Review Council, shall be held in confidence unless the Review Council decides whether the document should be placed on the public record following consultations with parties.

13.05 After consultations with parties the Review Council may:

- (a) direct that the document be placed on the public record;
- (b) direct that the document be held in confidence by the Review Council;
- (c) direct that an abridged version of the document be placed on the public record;
- (d) issue any other Direction the Review Council deems to be in the public interest.

13.06 In considering a request under this Rule, the burden of satisfying the Review Council that a document should be held in confidence is on the person requesting confidentiality.

14. Revisions to Documents

14.01 A party shall revise any document where significant new information becomes available before the Review Council advises the Minister pursuant to Section 7 or 13 of the Act, if the information is necessary for the purpose of determining the questions in issue in the proceeding.

14.02 Where all or any part of a document is revised, a copy shall be filed with the Review Council and any other parties to a proceeding and each revised page shall clearly indicate:

- (a) the date of revision; and
- (b) the part of the page revised.



Part III Proceedings

15. Request for Advice and Reporting

15.01 A proceeding shall be commenced upon receipt by the Review Council, of a request for advice, from a Minister.

15.02 Upon receipt by the Review Council of a request for advice from a Minister, the Secretary shall confirm receipt of the request and assign a registration number to the proceeding.

15.03 The Review Council shall provide advice to the Minister by way of a written report. Each report will be designated by a unique report number.

15.04 The Review Council shall distribute a copy of every final report issued in the context of a rate application, in accordance with Section 14 of the Act

16. Conduct of Proceedings

16.01 Upon receipt of a request for advice from the Minister, the Review Council may establish a process and prescribe a timetable for the activities it would engage in prior to providing advice to the Minister. The Review Council shall decide on the appropriate process steps having regard to the nature of the application and may, if the circumstances warrant, require public meetings, private meetings or technical workshops to facilitate exchange of information and resolution of issues among parties.

16.02 Within the 90 day period allowed under the Act for the Review Council to report to the Minister, the process time table allows for information to be sent to Hamlets and Members of the Legislative Assembly by the Corporation on the Minister's behalf and may provide for information gathering during the first 30 day period, meetings, consultations and final submissions by parties during the second 30 day period and writing of the Review Council's report to the Minister during the final 30 day period.

16.03 Upon receipt of a request for advice from the Minister, the Review Council may:

(a) cause notice of the proceeding to be published in newspapers of general circulation in the applicant's service area

(b) give directions as to the form and service of the notice of the proceeding;

- 16.04 Where a party has been directed to serve a notice under this Rule, the party shall provide proof of that service in a form satisfactory to the Review Council that indicates how, when and to whom service was made.
- 16.05 Parties interested in participating in a Review Council proceeding shall notify the Secretary of their intention to participate in the proceeding and provide particulars of their interest and contact details.
- 16.06 The Secretary will maintain and make available a current distribution list of interested parties
- 16.07 It is the responsibility of a party originating any correspondence, technical data and other material with regard to an application to distribute such material to all other parties on the distribution list in accordance with the prescribed timetable for the proceeding.
- 16.08 The onus is upon the applicant to demonstrate its case as put forth in the application. If required by the Review Council, the applicant shall file and present its application and all supporting information and appear and testify at meetings or make public presentations as may be required pursuant to the time table for the proceedings.
- 16.09 In the interest of transparency and openness, the Review Council may direct that any filed material or presentation be made available in a language prevalent in the service area that will be affected by the outcome of the proceeding.

17. Evidence

- 17.01 The Review Council is not bound by the strict rules of evidence and may accept evidence in its proceedings which would not be admissible in a Court of law.
- 17.02 The Review Council may require utilities, their employees and other parties to provide all information that is needed to carry out its purposes under the Act and may require that information be provided under oath, or by way of solemn affirmation.
- 17.03 Other than oral evidence provided under oath or solemn declaration, where evidence is required by the Review Council to be filed, the evidence shall be in writing, or when electronic filing is permitted, the evidence shall be in the form directed by the Review Council.



17.04 Any written evidence filed in a Review Council proceeding shall include a statement of the qualifications of the person who prepared the evidence and indicate under whose direction or control the evidence was prepared.

17.05 The Review Council may, at any time and on notice, require any of or all the information in a document filed with the Review Council to be verified in any respect by affidavit or oral testimony.

17.06 All correspondence, technical data and other material with regard to an application, including submissions by interested parties, shall be assigned a unique document identification number and held on the public register at the Review Council's registered office and may be reviewed by any member of the public.

18. Applications

18.01 In order to facilitate the expeditious provision of advice by the Review Council, every application should contain:

- (a) a clear and concise statement of the facts;
- (b) the grounds for the application;
- (c) the statutory provision(s) under which it is made; and
- (d) the nature of the order or decision applied for.

18.02 Every application should:

- (a) set out a proposed title of the proceeding;
- (b) be divided into consecutively numbered paragraphs, each of which is confined as nearly as possible to a distinct portion of the subject of the application;
- (c) be signed by the applicant or the applicant's representative;
- (d) provide the full name, address, and the telephone, fax and electronic access numbers of the applicant and the applicant's representative; and
- (e) provide any other information that may be useful in explaining or supporting the application.

19. Withdrawal of an Application

19.01 An applicant may withdraw an application by filing a notice of withdrawal of the application with the responsible Minister and the Secretary and serving the notice on the other parties.

20. Meetings

20.01 The Review Council may hold public meetings to

- (a) gain a better understanding of the matters before the Review Council
- (b) solicit advice and submissions from the public

20.02 The Review Council may hold private meetings to

- (a) assist utilities and their customers in developing a consensus on contentious issues through facilitation and mediation efforts
- (b) for any other purpose the Review Council deems appropriate

20.03 The Review Council shall, wherever possible hold meetings at such times and in such places as it chooses and in a manner that ensures that an application is dealt with efficiently and effectively

20.04 The applicant may amend its application following public or private meetings within a time limit specified by the Review Council

21. Interrogatories

21.01 The Review Council may provide for interrogatories necessary to:

- (a) clarify filed evidence
- (b) simplify the issues;
- (c) permit a full and satisfactory understanding of the matters to be considered



21.02 Interrogatories shall:

- (a) be directed to the party from whom the response is sought;
- (b) be numbered consecutively, or as otherwise directed by the Review Council, in respect of each item of information requested and should contain a specific reference to the evidence;
- (c) be grouped together according to the issues to which they relate;
- (d) contain specific requests for clarification of evidence, documents or other information that are in the possession of the party and are relevant to the proceeding;
- (e) be filed and served as directed by the Review Council; and
- (f) set out the name of the party issuing the interrogatories and the date on which they are filed and served.

22. Responses to Interrogatories

22.01 Where interrogatories have been directed and served on a party that party shall:

- (a) repeat the question at the beginning of its response;
- (b) provide a full and adequate response to each interrogatory on a separate page or pages;
- (c) number each response to correspond with each item of information requested or with the relevant document or evidence;
- (d) file and serve the response as directed by the Review Council; and
- (e) set out the date on which the response is filed and served.

23. Identification of Issues

23.01 The Review Council may identify issues that it will consider in a proceeding if, in the opinion of the Review Council:

(a) the identification of issues would assist the Review Council in the conduct of the proceeding;

(b) the documents filed do not sufficiently set out the matters in issue; or

(c) the identification of issues would assist the parties to participate more effectively in the proceedings.

24. Final Submissions

24.01 At the conclusion of a proceeding the Review Council may require a final written submission to be filed by parties in accordance with the prescribed timetable for the proceedings.

25. Experts and Advisors

25.01 The Review Council may retain the services of experts and advisors to assist the Review Council in carrying out its purposes under the Act

Part IV Other Matters

26. Annual Report

26.01 The Review Council shall by March 31 in each year forward to the Minister for the Review Council a report showing its activities in accordance with Section 8(2) of the Act

26.02 The Annual Report shall include the reference number of each proceeding, dates and particulars of each proceeding, summaries of the initial and final reports provided to the Minister by the Review Council, the reasons provided by the Minister in response to the Review Council's reports and instructions to utilities, all as applicable to each proceeding.



27. Conflict of Interest Guidelines

27.01 The Members of the Review Council shall follow the provisions of the Conflict of Interest Act in respect of a potential conflict of interest.

Rate Setting Guidelines Concerning the Procedures and Practices of the Utility Rates Review Council

These Guidelines are Issued by the Minister for the Review Council Pursuant to Section 6(2) of the Utility Rates Review Council Act

In determining any advice provided under section 7 or 13 of the *Utility Rates Review Council Act* as to whether rates and tariffs are fair and reasonable the Review Council should be guided by the following principles:

1(1) Total Cost Recovery

Rates should be set so that looking ahead each year the total revenue the utility earns from the rates will match the total cost of providing services¹ as determined under these guidelines.

1(2) Traditional Regulatory Approach

The total cost of providing services should be determined using principles commonly applied in Canada to regulated utilities. Some key features of that approach are:

- a) Determine the value of all the property the utility uses or needs to provide the service².
- b) In determining the value of the property used or needed
 - i) consider the reasonableness of the utility's forecast of customer growth, system use, and sales, and its plans for adding and upgrading plant and equipment in view of that forecast and the need to provide safe reliable service;
 - ii) use the cost of property when first put it into service taking into account what the utility acting wisely should have paid for it and any depreciation, amortization or depletion; and
 - iii) consider necessary working capital.

1 "Revenue Requirement" is the term often used for the utility's "total cost of providing services".

2 "Rate Base" is the term often used for the "value of all the property the utility uses or needs to provide the service".



c) Once the total value of the property has been determined, decide on a suitable mix of equity and debt for financing the property, and allow as costs

- i) a fair return on the equity part, and
- ii) reasonable interest and related costs for the debt part.

d) In addition to these costs, include all other costs that appear reasonably necessary for the utility to provide services, for example:

- i) all reasonable operations and maintenance expenses,
- ii) fuel costs,
- iii) taxes, and
- iv) any other costs the utility must incur to provide safe, reliable service.

In any case where the Review Council is requested to provide advice to Government, it may base its analysis on these and other generally accepted regulatory principles.

1(3) Non discrimination and conservation

Rates for service provided by a utility shall not be unjustly discriminatory or unduly preferential. The Review Council should base its analysis of applications on this principle and report to Government accordingly.

Rates for utility service should be designed to encourage the wise use of energy and the Review Council should report to Government in accordance with this principle.

2. Monitoring and Oversight

A regulated utility may be requested by the Review Council to file with the Council periodic reports concerning its affairs, earnings, operations, service levels or any other matter that would assist the Review Council in discharging its responsibilities under the Act.