

MANITOBA CLEAN ENVIRONMENT **COMMISSION**

Practice Guidelines in respect of Hearing Status

There are many parties to a Hearing Process of the Clean Environment Commission (CEC): the Hearing Panel (Panel), the Proponent, Participants, Presenters and the General Public.

These Practice Guidelines are intended to describe these various parties and set out the rights of those appearing before the Panel. Furthermore, these guidelines should help to ensure that the hearings remain fair and open forums for all parties. It is intended that the hearings remain informal, but with some structure.

A. Hearing Panel

In accordance with *The Environment Act*, the CEC Chairperson appoints a panel of at least three members to conduct the hearing. One of the members is designated to be chairperson of the Panel.

The Panel conducts the hearings, considers the evidence presented and reports to the Minister its recommendations. It must conduct its hearings in accordance with the Terms of Reference given by the Minister.

B. Proponent

The Proponent is the corporation, organization or agency which has made application under the *Act* for an environmental licence to proceed with the proposed Project.

It is this application and associated documentation that is the matter under review during the CEC hearing process.

C. Participants

The following are Participants:

- (a) Persons or organizations which have applied for, and been granted, funding under the Participant Assistance Program;
- (b) Persons or organizations which have applied for, but not been granted, funding under the Participant Assistance Program and which express a desire to have participant status (this may be done on the PAP application or by writing to the hearing Panel);
- (c) Persons or organizations which request participant status and are so specified by the Panel for all or part of the proceeding, and on such conditions as the Panel considers appropriate (this is to be done by written application to the hearing Panel.)

In deciding whether to name a person or organization as a Participant to the proceeding, the Panel may consider relevant matters including whether:

- (a) A person's interests may be directly and substantially affected by the Hearing or its result;
- (b) A person has a genuine interest in the subject matter of the proceeding;
- (c) A person is likely to make a useful and distinct contribution to the Panel's understanding of the issues in the proceeding.

Role of a Participant

The Panel may reduce the procedural obligations of a Participant depending on the interests and resources of the participant.

A Participant to the proceeding before the Panel may:

- (a) Bring motions;
- (b) Be a witness at the Hearing;
- (c) Be questioned by the Panel, the Proponent and other Participants;
- (d) Call witnesses at the hearing;
- (e) Cross-examine witnesses presented by the Commission, the Proponent or other Participants;
- (f) Make submissions to the Panel, including final argument; and
- (g) Receive copies of all documents exchanged or filed by the Proponent and other Participants.

Expectations of Participants

Participants shall co-operate with each other in matters such as scheduling, disclosure, procedure and agreements on uncontroverted facts to the fullest extent that is compatible with their interests.

Participants are expected to keep abreast of hearing activities, either by attending all hearings or reading the transcripts. The purpose of this is to avoid duplication of questions or submissions.

D. Presenters

The Panel may name persons to be presenters in all or part of a proceeding on such conditions as the Panel considers appropriate. A presenter to a proceeding is not a participant in the proceeding.

Role of a Presenter

A presenter in a Hearing:

- (a) Shall present his or her relevant evidence at a pre-arranged time, either during a Hearing's regular session or at a special session;
- (b) May be questioned by the Panel.

A presenter in a Hearing may not:

- (a) Call witnesses;
- (b) Cross-examine witnesses;
- (c) Bring motions;
- (d) Make opening and/or closing statements at the Hearing; or
- (e) Be guaranteed to receive a copy of documents exchanged by the participants that are relevant to the presenter's interests.

The Panel may direct persons who have similar interests to designate one person to act as their representative or to co-ordinate their participation in the proceeding.

Presenters can be questioned by the Panel but will not be subject to cross examination by the other parties.

At specific, designated times, Presenters may ask questions of the Proponent, in respect of the project under review.

E. General Public

These Guidelines do not preclude the General Public from participating in the hearing process.

Statements

At specific, designated times, a member of the public may make a statement in respect of the subject under consideration. The person must make his or her intention to make a statement known to the CEC Secretary, prior to the designated period.

Such statements must be relevant and must not exceed 15 minutes in length. The public presenter may be questioned by Panel members, following the presentation.

Questions

At specific, designated times, members of the public may ask questions of the Proponent, in respect of the Project under review.

F. Communications with the Panel

Written communication to the Panel shall occur only through the Commission Secretary, and shall be copied to all parties or their representatives.

Oral communication with the Panel about a current proceeding shall occur only in the presence, or with the consent, of all participants.

Where a participant has a representative, all communication between the Panel and the participant shall be through the representative¹, including of notices of the Hearing.

(May 2008)

¹ “Representative” means legal counsel or an agent who is authorized to represent a person in a proceeding;