

# **ELECTRICAL SAFETY AUTHORITY**

## **RULES OF PROCEDURES FOR REVIEWS AND APPEALS**

### **DIRECTOR'S REVIEWS OF ORDERS, DIRECTOR'S HEARINGS FOR NOTICES, AND APPEALS TO THE REVIEW PANEL**

#### **INTRODUCTION**

These Rules of Procedures set out what you need to know or do when you are disputing an Electrical Safety Authority (ESA) Order, Licensing Notice of Proposal, Provisional Notice to Suspend or Refuse to Renew, or an Administrative Penalty Order (APO) that has been issued. ESA is mandated by the Ontario Government to enhance public electrical safety in the province. The ESA may issue Orders related to electrical safety, including an APO, or Notices of Proposal or Provisional Notices related to licences for Master Electricians and Electrical Contractors.

If you do not agree with an ESA Order, or an ESA Notice against you, the following processes are available:

#### **STAGE ONE: Review/Hearing By Director of Reviews and Appeals**

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**Director's Reviews** (Rules, Section B) involve asking the ESA Director of Reviews and Appeals to review an ESA Order about electrical safety, or to review the ESA's failure to make an Order requested by the Applicant. (Sections A and B of the Rules apply).

OR

**Director's Hearings** (Rules, Section C) involve asking the ESA Director of Reviews and Appeals to change the ESA's Notice of Proposal (or Provisional Notice in some urgent cases) to refuse, suspend, revoke or impose conditions on an authorization required to perform electrical work or to operate an electrical contracting business. (Sections A and C of the Rules apply).

Note: the Stage One review processes do not apply to disputes regarding APOs.

#### **STAGE TWO: Review Panel Appeal**

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If you do not agree with a Decision made by the Director of Reviews and Appeals in Stage One of the process, either as a result of a Director's Hearing or Director's Review, OR you do not agree with an APO, the following process is available:

**Appeals to the Review Panel** (Rules, Section D) can be made to challenge certain ESA decisions by the Director of Reviews and Appeals or APOs. (Section A and D of the Rules apply).

#### **How Reviews and Appeals Work**

The Director of Reviews and Appeals is authorized by ESA and the legislation to consider and decide your arguments against certain ESA Orders or Notices of Proposal (or Provisional Notices). This generally involves a written process where you and the ESA General Manager or Director who made the Order or Notice will give documents and arguments to the Director of Reviews and Appeals.

If you are not satisfied with the decision from the Director of Reviews and Appeals or with an ESA order to pay an APO, you have the right to appeal to the Review Panel. The Review Panel is assigned from a roster of expert members who have a duty to act independently from ESA when adjudicating these appeals. A Review Panel (which may be a single person) hears and decides the appeal in a manner that is fair, accessible and efficient. Appeal cases may go through a case management process that includes pre-hearing case conferences and possible settlement discussions. Then, if a hearing is needed, the Review Panel will consider evidence from documents and witnesses, and arguments from you (the Appellant), and ESA (the Respondent), and then make a decision that is binding on both you and ESA. This hearing may be in writing.

The Rules of Procedures for Reviews and Appeals provide guidance and predictability to assist all participants in these processes. This document is in a format with clickable links to more information, definitions and other resources on the [ESA website](#).

For more information, please contact the ESA Reviews and Appeals Office:

Reviews and Appeals Office  
Electrical Safety Authority  
155A Matheson Blvd. West  
Mississauga, ON L5R 3L5

Tel: 905-712-5673

Email: [ESA.Appeals@electricalsafety.on.ca](mailto:ESA.Appeals@electricalsafety.on.ca)

*Disponible en français (available in French)*

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# **RULES OF PROCEDURE FOR ALL REVIEWS, HEARINGS, AND APPEALS – SECTION A**

## **1. GENERAL – SECTION A**

### *Purpose*

- 1.1 These Rules of Procedure set out how reviews and appeals are handled at the Electrical Safety Authority (ESA), and what Parties need to know or do when they are involved in a Director's Review, Director's Hearing or Review Panel Appeal.

### *Using These Rules of Procedure*

- 1.2 These Rules of Procedure should be used in a way that promotes:

- (1) predictable processes that are fair, accessible and efficient; and
- (2) flexible processes that are proportionate to how simple or complex the Case is, and how much the outcome could affect the Parties and the public.

### *Flexible Application of the Rules of Procedure*

- 1.3 The Director of Reviews and Appeals in a Director's Review or Director's Hearing, or the Review Panel in an Appeal, may decide in any Case not to apply a Rule, or to change a time limit or other requirement in a Rule, for the purposes of promoting the goals in Rule 1.2.

### *Related Legislation*

- 1.4 These Rules of Procedure should be read and understood together with the [Acts and Regulations related to electrical safety and ESA](#). In addition, the [Statutory Powers Procedure Act](#) (SPPA) applies to Director's Hearings and Review Panel Appeals.

### *In force date*

- 1.5 These Rules of Procedure apply immediately to all Cases, even if the Case started before these Rules came into effect, but the Director of Reviews and Appeals or the Review Panel may make Orders or other directions to ensure that any transition from older Rules or procedures does not cause unfair processes or unnecessary delays.

### *Time – How to Calculate*

- 1.6 If a time period expires on a day that is not a Business Day, it shall be treated as expiring at 4:30 p.m. on the next day that is a Business Day.

### *Defined Terms*

- 1.7 In these Rules and Procedures,

- (1) "Business Day" means a day when the ESA head office is open for business, and does not include Saturday, Sunday or statutory holidays.
- (2) "Case" means a Director's Review, a Director's Hearing, or a Review Panel Appeal.

- (3) “Deliver” or “Delivery” means to provide or serve a document or thing to another person, using one of the ways in Rule 3.
- (4) “Director of Reviews and Appeals” means the Director appointed by the ESA under sections 8, 13 or 17(1) of [Ontario Regulation 187/09](#), or the authorized delegate of this Director.
- (5) “Manager of Reviews and Appeals” means the person responsible for the Reviews and Appeals Office.
- (6) “Regulation 187/09” means [Ontario Regulation 187/09](#) under the [Safety and Consumer Statutes Administration Act, 1996](#).
- (7) “Party” or “Parties” means the persons who have a right to participate in the Case.
- (8) “Representative” means a person allowed by the Director of Reviews and Appeals to represent a Party in a Director’s Review or Director’s Hearing, or a lawyer, licensed paralegal or other person authorized under the Rule 10 to represent a Party in a Review Panel Appeal.
- (9) “Reviews and Appeals Office” means the office that is responsible for administration and case management for Director’s Reviews, Director’s Hearings and Review Panel Appeals.

## **2. PARTICIPATION, COMMUNICATIONS**

### *Duty to Participate*

2.1 All Parties and their Representatives must:

- (1) have enough information and instructions to effectively participate in the Case, and have the authority to make agreements or settle any issues;
- (2) act in good faith by being honest and not using the review or appeal processes for delay or any improper purpose; and
- (3) communicate in a way that is timely and courteous, and respectful of everyone.

### *Failure to Participate or Attend*

2.2 Where the Reviews and Appeals Office has Delivered a notice to anyone to participate in a Case, and that person fails to participate in, attend at or finish any process, the Director of Reviews and Appeals or the Review Panel may go ahead to consider and decide the Case without that person, and that person has no right to any further notice about the Case.

### *Contact Information*



- 2.3 Every Party or Representative must Deliver their contact information or any changes to their contact information to the Reviews and Appeals Office, and to the other Parties or Representatives, as soon as possible.

*Contact Information – Content*

- 2.4 The contact information includes:

- (1) a mailing address (which cannot be a P.O. Box);
- (2) a telephone number; and
- (3) an e-mail address.

*Communications Through the Reviews and Appeals Office*

- 2.5 Any Party, Representative or other person who wishes to have written communications with the Director of Reviews and Appeals or the Review Panel in relation to a Case must do this through the Reviews and Appeals Office, and must include their current contact information.

*Copied to All Parties*

- 2.6 All written communications to the Reviews and Appeals Office in relation to a Case should be copied to all Parties (or their Representatives, if any), unless they involve inquiries of an administrative nature that will not affect any interests of other Parties.

*Accommodation Requirements under the Human Rights Code*

- 2.7 All Parties, Representatives and other participants have a right to equal access to the ESA's services. They should inform the Reviews and Appeals Office or the Review Panel about any needs or barriers related to the [Human Rights Code of Ontario](#) as soon as possible.

### **3. DELIVERY OF DOCUMENTS**

*Delivery of Documents*

- 3.1 The Director of Reviews and Appeals in a Director's Review or Director's Hearing, or the Review Panel in an Appeal, may require that documents be Delivered by a certain time, and in a certain format or quality, or with limits in size or number of files. Documents should have pages that are numbered consecutively.

*Documents May Be Refused*

- 3.2 If documents are not in an acceptable format, quality, number or size, the Reviews and Appeals Office may refuse to accept the documents, and may require the Party who Delivered those documents to Deliver them again in an acceptable way.

*Delivery of Documents or Files*

- 3.3 Paper or written documents, photographs or recordings, or other electronic files must be Delivered by e-mail unless the Reviews and Appeals Office allows or

requires another way. If there is an in-person Hearing before the Review Panel, Parties may be required to Deliver physical copies before the Hearing.

#### *Delivery of Physical Objects*

3.4 Any physical object, or documents or files that are not Delivered electronically, must be Delivered by:

- (1) personal delivery;
- (2) mail;
- (3) courier; or
- (4) any other way that the Parties agree to or the Reviews and Appeals Office allows.

#### *Timing of Receipt – Deemed Receipt*

3.5 Where the Reviews and Appeals Office or a Party Delivers a document or physical object, that document or object is considered to be received at the following times:

- (1) if by personal delivery, at the time when it is handed over directly to the person;
- (2) if by regular mail, on the fifth business day after the postmark date on the envelope;
- (3) if by courier, on the third business day after the day the document or object was given to the courier; or
- (4) if by electronic transmission, including e-mail and facsimile, on the same day that it was transmitted.

#### *Non-Receipt*

3.6 The previous Rule about deemed receipt does not apply if a person can show that they did not actually receive the document or object until a later date, or did not receive it at all, because of some reason that was beyond that person's control.

#### *Proof of Delivery*

3.7 A Party who is required to Deliver something to another Party must also Deliver to the Reviews and Appeals Office a written statement with details about how and when they made that Delivery to the other Party or provide other proof as the Reviews and Appeals Office may require.

## **4. DISCLOSURE (GENERAL)**

#### *Disclosure of Details or Documents*

- 4.1 The Director of Reviews and Appeals in a Director's Review or Director's Hearing, or the Review Panel in an Appeal, may order a Party to give more details, information or documents, if that is needed for a better understanding of the issues in the Case.

## **RULES OF PROCEDURE FOR DIRECTOR'S REVIEWS – SECTION B**

In addition to the Rules in Section A, the following Rules apply to Director's Reviews.

### **5. DIRECTOR'S REVIEWS – SECTION B**

#### *Defined Terms*

5.1 In these Rules for Director's Reviews,

- (1) "Applicant" is the person who is asking the Director of Reviews and Appeals to review an ESA Order or the ESA's failure to make a requested ESA Order, under section 9(1) or (2) of [Ontario Regulation 187/09](#).
- (2) "ESA General Manager/Director" is the ESA representative who is responsible for making or failing to make the ESA Order that is being disputed.
- (3) "ESA Order" means an order under section 113(11) of the [Electricity Act, 1998](#); these are orders related to electrical safety made by an ESA General Manager/Director and, for this Section B, do not include Administrative Penalty Orders (APOs).
- (4) "Parties" means the Applicant and the ESA General Manager/Director.

#### *Application for Director's Review – Timing (ESA Order)*

5.2 The Applicant must Deliver to the Reviews and Appeals Office an Application for Director's Review no later than 15 days after receiving the ESA Order being disputed (see section 9(1) of [Ontario Regulation 187/09](#)).

#### *Application for Director's Review – Timing (ESA Failure to Make ESA Order)*

5.3 If the Case involves the ESA failing to make an ESA Order that the Applicant had applied for, the Applicant must first wait until the expiry of the 15 days for the ESA to make the requested ESA Order, and then the Applicant has 15 more days to Deliver to the Reviews and Appeals Office an Application for Director's Review (see section 9(2) of [Ontario Regulation 187/09](#)).

#### *Extension of Time*

5.4 The Director of Reviews and Appeals may extend the time allowed for Delivery of the Application for Director's Review, if there are reasonable grounds for the extension and apparent grounds supporting the Application. This extension cannot be for more than 15 days after the Director of Reviews and Appeals grants the extension (see sections 9(3), (4) and (5) of [Ontario Regulation 187/09](#)).

#### *Application for Director's Review – Content*

5.5 The Application for Director's Review must include:

- (1) a copy of the ESA Order that the Applicant is asking the ESA Director of Reviews and Appeals to change, or a copy of the Applicant's application for an ESA Order that the ESA failed to make;

- (2) the Applicant's reasons for disagreeing with the ESA Order or with the ESA's failure to make the requested ESA Order;
- (3) any supporting documents or evidence;
- (4) the Applicant's arguments to support the decision that the Applicant wants the Director of Reviews and Appeals to make; and
- (5) any fee required for the Director's Review.

#### *Delivery of Application for Director's Review – Format*

5.6 If the Application for Director's Review is Delivered with a paper copy and not electronically, the Applicant must Deliver two copies.

#### *Notice of Director's Review*

5.7 After receiving an Application for Director's Review, the Reviews and Appeals Office will:

- (1) Deliver a complete copy of the Application, including attachments, to the ESA General Manager/Director; and
- (2) Deliver to the Parties a Notice of Director's Review that sets out the written review process, including the timing for receiving more information, evidence and arguments from the Parties.

#### *Stay of the ESA Order*

5.8 An Application for Director's Review of an ESA Order will automatically stay that ESA Order, which means that the ESA Order will not be enforced until after the review and any Review Panel Appeal is finished (see section 9(6) of [Ontario Regulation 187/09](#)).

#### *Lifting the Stay*

5.9 The Director of Reviews and Appeals may decide to lift (remove) the stay of an ESA Order if this is necessary in the interest of public safety. The Director may lift the stay without giving notice to the Applicant (see section 9(7) of [Ontario Regulation 187/09](#)). Even if the stay is lifted and the ESA takes action to enforce the ESA Order, the Director's Review may continue and the Director still has the power to decide to change the ESA Order.

#### *Decision*

5.10 In a Director's Review, the Director of Reviews and Appeals may decide to:

- (1) not start or finish the Review, and instead refer the Case to the Review Panel for a Hearing; or
- (2) confirm, change or cancel the ESA Order, or make whatever other decision that the Director considers to be appropriate.  
(see section 9(9) of [Ontario Regulation 187/09](#))

## **RULES OF PROCEDURE FOR DIRECTOR'S HEARINGS – SECTION C**

In addition to the Rules in Section A, the following Rules apply to Director's Hearings.

### **6. DIRECTOR'S HEARINGS - SECTION C**

#### *Defined Terms*

6.1 In these Rules of Procedure for Director's Hearings,

- (1) "Applicant" means the person asking for a Director's Hearing to dispute a Notice of Proposal or Notice of Provisional Suspension/Refusal to Renew, under sections 113.4 or 113.5 of the [Electricity Act, 1998](#). This person is the applicant for an authorization or the holder of an authorization that is the subject of the ESA Notice of Proposal.
- (2) "Director of Licensing" is the ESA Director who made the Notice of Proposal or Notice of Provisional Suspension/Refusal to Renew against the Applicant.
- (3) "Notice of Proposal" means the notice made by the Director of Licensing under section 113.3 of the [Electricity Act, 1998](#), to inform the Applicant that the Director of Licensing intends to refuse, suspend, revoke, or impose restrictions, limitations or conditions on an authorization.
- (4) "Notice of Provisional Suspension/Refusal to Renew" means the made by the Director of Licensing under 113.5 of the [Electricity Act, 1998](#), to suspend or refuse to renew an authorization on an interim basis because of an immediate threat to the safety of the public or any person.
- (5) "Parties" means the Applicant and the Director of Licensing.

#### *Application for Director's Hearing – Timing*

6.2 The Applicant must Deliver to the Reviews and Appeals Office an Application for Director's Hearing no later than 15 days after receiving the ESA Notice of Proposal or Notice of Provisional Suspension/Refusal to Renew (see sections 113.4 or 113.5 of the [Electricity Act, 1998](#)).

#### *Extension of Time*

6.3 The Director of Reviews and Appeals may extend the time allowed for Delivery of the Application for Director's Hearing, if there are reasonable grounds for the extension and apparent grounds supporting the Application (see sections 113.4(2) and (3), and 113.5(3) of the [Electricity Act, 1998](#)).

#### *Application for Director's Hearing – Content*

6.4 The Application for Director's Hearing must include:

- (1) a copy of the Notice of Proposal or Notice of Provisional Suspension/Refusal to Renew that the Applicant is asking the Director of Reviews and Appeals to change;

- (2) the Applicant's reasons for disagreeing with the Notice of Proposal or Notice of Provisional Suspension/Refusal to Renew;
- (3) any supporting documents or evidence;
- (4) the Applicant's arguments to support the decision that the Applicant wants the Director of Reviews and Appeals to make; and
- (5) any fee required for the Director's Hearing.

#### *Delivery of Application for Director's Hearing – Format*

6.5 If the Application for Director's Hearing is Delivered with a paper copy and not electronically, the Applicant must Deliver two copies.

#### *Notice of Director's Hearing*

6.6 After receiving an Application for Director's Hearing, the Reviews and Appeals Office will:

- (1) Deliver a complete copy of the Application, including attachments, to the Director of Licensing; and
- (2) Deliver to the Parties a Notice of Director's Hearing that sets out the written hearing process, including the timing for receiving more information, evidence and arguments from the Parties.

#### *Opportunity to Comply*

6.7 The Notice of Director's Hearing shall give the Applicant a reasonable opportunity to show or to achieve, before the hearing, compliance with all lawful requirements for receiving, keeping or renewing the authorization (see section 113.7(1) of the [Electricity Act, 1998](#)).

#### *Written Hearing*

6.8 The Director's Hearing will be held in writing, unless a Party satisfies the Director of Reviews and Appeals that there is good reason for not doing this. A Party would need to show why the Director should have an oral hearing at this stage, which is intended to be a fast, simple and inexpensive review, when the Applicant has the right to appeal to the Review Panel and have a full hearing at this next stage.

#### *Evidence and Arguments*

6.9 The Director of Reviews and Appeals will only consider documents, evidence or arguments that:

- (1) all Parties have received; and
- (2) follow sections 15, 15.1, 15.2 and 16 of the [Statutory Powers Procedure Act](#) – these sections give flexibility for tribunals to use any relevant evidence (with specific exceptions) and to take notice of any generally recognized scientific or technical facts, information or opinions within the Director of Reviews and Appeals' scientific or specialized knowledge (see section 113.4(6) of the [Electricity Act, 1998](#)).

*Decision*

- 6.10 After the hearing, the Director of Reviews and Appeals may make a decision by following sections 113.4(7) or 113.5(4) of the [Electricity Act, 1998](#). These sections set out what findings or situations will allow the Director to make certain decisions, such as a decision to carry out the proposal to suspend, refuse, revoke or impose conditions; to reinstate the authorization; or to impose conditions on the authorization.



## **RULES OF PROCEDURE FOR REVIEW PANEL APPEALS – SECTION D**

In addition to the Rules in Section A, the following Rules apply to Review Panel Appeals.

### **7. REVIEW PANEL APPEALS (GENERAL) – SECTION D**

#### *Defined Terms*

7.1 In these Rules of Procedure for Review Panel Appeals,

- (1) “Appeal” means an appeal to the Review Panel made under sections 10(1), 14(1), or 17(2) of [Ontario Regulation 187/09](#), and includes a Referral of ESA Order to the Review Panel.
- (2) “Appellant” is the person who is making an Appeal of the decision made by the Director of Review and Appeals, the Administrative Penalty Order, or the person who is named in a Referral of ESA Order to the Review Panel.
- (3) “Case Conference” means a pre-hearing conference or a meeting with the Parties that is not a Hearing.
- (4) “ESA Order” means an order related to electrical safety made by the ESA General Manager/Director (as defined in Rule 5.1(3) above) or an Administrative Penalty Order made by a Director (under section 113.18.1(1) of the [Electricity Act, 1998](#)).
- (5) “Director of Review Panel Appointments” means the Director appointed by the ESA to be responsible for the Review Panel Roster, or the authorized delegate of this Director.
- (6) “Hearing” means the adjudication process of the Review Panel considering evidence and arguments in a written or oral hearing, which may be in writing, in person, by telephone, videoconference or any other way that allows the Parties to participate in the Hearing.
- (7) “Motion” means a request by a Party for an Order from the Review Panel.
- (8) “Parties” means the Appellant and either the ESA General Manager or Director who made the ESA Order being appealed, or the Director of Licensing who made the Notice of Proposal or Notice of Provisional Suspension/Refusal to Renew.
- (9) “Presiding Member” means the member of the Review Panel who is designated by the Director of Review Panel Appointments to preside over the Hearing of a Case.

- (10) “Proceeding” means any event or process in the Review Panel’s consideration of a Case, which may include a Case Conference, Motion, Hearing, or other written or oral process.
- (11) “Referral of ESA Order” means a referral of an ESA Order to the Review Panel, made by the ESA Director of Reviews and Appeals under section 9(9)(a) of [Ontario Regulation 187/09](#).
- (12) “Review Panel” means the panel of one, two or three members of the Review Panel Roster who are appointed by the Director of Review Panel Appointments to any Proceeding in a Case.

#### *Stay of the ESA Decision or Order*

7.2 An appeal of the Director of Reviews and Appeals’ decision or an Administrative Penalty Order will automatically stay that ESA decision or order. This means that the ESA decision or order will not be enforced until after the Review Panel Appeal is finished (see sections 10(5), 14(6) and 17(8) of [Ontario Regulation 187/09](#)).

#### *ESA Application to Lift Stay*

7.3 For appeals of decisions of the Director of Reviews and Appeals (and not for appeals of Administrative Penalty Orders), the ESA Director may ask the Review Panel to remove this automatic stay of the ESA decision, under sections 10(6) or 14(7) of [Ontario Regulation 187/09](#).

#### *Practice Directions*

7.4 The Reviews and Appeals Office may publish Practice Directions or similar types of documents to give more information to the Parties and other participants about the Review Panel’s procedures.

## **8. TRIBUNAL POWERS**

#### *Orders*

8.1 In addition to the power in section 1.3 of Section A (to not apply a Rule, or to change a time limit or other requirement), the Review Panel may make Orders to promote a fair, accessible and efficient process in each Case.

#### *Orders on Review Panel’s Own Initiative*

8.2 The Review Panel may make Orders without any request from a Party.

## **9. NOTICES**

#### *Notice of Appeal – Timing*

9.1 The Appellant may start an Appeal by Delivering to the Reviews and Appeals Office their Notice of Appeal no later than 15 days after the date of the Director of Reviews and Appeals’ decision that is being appealed; or in an appeal of an Administrative Penalty Order, within 15 days after receiving that order (see sections 10(1), 14(1) or 17(2) of [Ontario Regulation 187/09](#)).

### *Notice of Appeal – Content*

9.2 The Notice of Appeal must include:

- (1) a copy of the Director of Reviews and Appeals' decision or Administrative Penalty Order that is being appealed;
- (2) a complete copy, if applicable, including attachments, of the Appellant's Application for Director's Review or Application for Director's Hearing that led to the Director's decision being appealed;
- (3) the Appellant's reasons for appealing; and
- (4) any fee required for an Appeal.

### *Notice of Referral – Timing*

9.3 If a Case is started by a Referral of ESA Order made by the Director of Reviews and Appeals, the Director must Deliver to the Appellant and the Reviews and Appeals Office a Notice of Referral no later than 15 days after the Director's decision to refer the matter under section 9(9)(a) of [Ontario Regulation 187/09](#).

### *Notice of Referral – Content*

9.4 The Notice of Referral must include a complete copy of the Appellant's Application for Director's Review, including attachments.

### *Acknowledgment of Case*

9.5 After receiving a Notice of Appeal or Notice of Referral, the Reviews and Appeals Office will Deliver to the Parties a notice that the Case has been started, together with information about the process.

## **10. REPRESENTATION**

### *Licensed Representatives*

10.1 A Party may choose to be represented, at the Party's own cost, by a lawyer or paralegal who is licensed and in good standing with the [Law Society of Ontario](#), or any other person who is allowed by the Law Society of Ontario to appear before a tribunal such as the Review Panel.

### *Notice of New or Changed Representative*

10.2 After a Party has a new or changed Representative, that Party or Representative must Deliver written notice about this, as soon as possible, to the Reviews and Appeals Office and the other Parties or their Representatives.

### *Avoid Delay or Unfairness*

10.3 The Review Panel may make Orders to ensure that any hiring or change of a Representative does not cause unfair processes or unnecessary delays. A Party should not choose a Representative who is not available or ready to participate properly for any dates or deadlines that have already been set.

### *Duties and Powers of Representatives*

- 10.4 A Representative may do whatever their client (the Party) may do, and a Representative must not do whatever their client is prohibited from doing, under these Rules or an Order of the Review Panel.

## **11. EARLY SCREENING**

### *Early Refusal by Reviews and Appeals Office*

- 11.1 The Reviews and Appeals Office may refuse to open a Case for a Notice of Appeal if,

- (1) the required documents are incomplete;
- (2) the documents are received after the deadline; or
- (3) the required fee has not been paid.

### *Opportunity to Comply*

- 11.2 Before making a decision not to process a Case, the Reviews and Appeals Office will give written notice to the Appellant about which of the above requirements are not met, and what they can do and how much time they have to comply with the requirements.

### *Early Dismissal by Review Panel*

- 11.3 The Review Panel may dismiss a Case before any Hearing or without a Hearing, if it is a Case:

- (1) about issues that are frivolous, which includes issues that are so minor that it would be unfair to require a Party go through a full Hearing process;
- (2) that the Review Panel has no legal power to decide;
- (3) where a Party is abusing the Review Panel processes or using the processes for an improper purpose; or
- (4) where the Review Panel has found that a Party has abandoned their Case because the Party no longer wants to continue, is no longer actively involved, or is not complying with the Review Panel's Orders to enable the Case to go ahead.

### *Early Dismissal – Notice*

- 11.4 The Reviews and Appeals Office must give the Parties written notice about the reasons for possible dismissal, and how and when the Parties may make arguments to the Review Panel. These arguments will be in writing, unless the Review Panel allows another way.

## **12. DISCLOSURE**

### *Disclosure (General)*

- 12.1 As indicated in the general Rule about disclosure in Rule 4.1 of Section A, the Review Panel may order a Party to give more details, information or documents, if that is needed for a better understanding of the issues in the Case.

*Disclosure of Evidence*

- 12.2 To ensure a fair and efficient process, each Party must disclose to the other Party any evidence that they may be relying on or using in the Case.

*Disclosure of Witnesses*

- 12.3 Each Party must also disclose a list of witnesses and a brief description of the testimony expected from each witness. Rule 18 has more requirements for disclosure about expert witnesses.

*Timing of Disclosure*

- 12.4 If there is no Order or Notice that sets the deadlines for disclosure, the disclosure must be Delivered no later than 14 days before the first date of the Hearing.

*Copies at In-Person Hearing*

- 12.5 If there is an in-person Hearing, a Party must Deliver three paper copies to the Reviews and Appeals Office and one paper copy to the other Parties, no later than the start of the Hearing, unless the Review Panel or the Reviews and Appeals Office requires otherwise.

*Exception to Disclosure – Privileged Information*

- 12.6 Nothing in these Rules requires any disclosure that is contrary to law or any disclosure of privileged information.

*Consequences of Non-Compliance*

- 12.7 If a Party fails to comply with the requirements for disclosure, that Party may not rely on the document or thing as evidence, or call the witness to give evidence, unless allowed by the Review Panel.

## **13. CASE CONFERENCES**

*Parties Required to Participate in Case Conference*

- 13.1 The Parties may be required to participate in one or more Case Conference, which is a meeting of the Parties that is not a Hearing. Further to Rule 1.2, a Case Conference will be conducted by telephone, videoconference or other electronic format, unless the Review Panel or a person assigned to conduct the Case Conference chooses another way.

*Assignment to Conduct Case Conference*

- 13.2 The Director of Review Panel Appointments may assign one or more persons, including anyone who is not on the Review Panel Roster, to conduct a Case Conference.

*Purpose of Case Conference*

- 13.3 At a Case Conference, the Parties should be prepared to discuss and agree upon any of the following matters:

- (1) issues, evidence or facts that the Parties can identify, simplify, organize or agree on;
- (2) possible Motions or other preliminary matters that should be dealt with before the Hearing;
- (3) deadlines for beginning or completing certain actions, including disclosure or other exchange of documents or information;
- (4) dates and times for further Proceedings, such as the Hearing, Motions or more Case Conferences, and how these will be conducted;
- (5) requirements related to language, interpreters, or accessibility or other human rights accommodation;
- (6) possible settlement of all or part of the Case; and
- (7) anything else that may help the Parties and the Review Panel be ready for a focused Hearing that is fair, accessible and efficient.

#### *Procedural Orders*

13.4 A person assigned to conduct the Case Conference has the power to make Orders that are interim procedural Orders to ensure that the Parties are properly prepared before the Case Conference, or are properly prepared for any Hearing or further Proceeding. These may include procedural Orders about scheduling, disclosure, or any time periods or deadlines.

#### *Member May Make Other Orders*

13.5 If the person assigned to conduct the Case Conference is a Review Panel member, this member may also make any other kind of Orders related to the Case, including Orders after considering Motions from a Party.

#### *Confidentiality*

13.6 Case Conferences are not public Proceedings. Any discussions or communications at a Case Conference must not be disclosed or repeated in the Hearing of the Case on the merits, unless all Parties agree or the Review Panel allows this.

## **14. SETTLEMENTS, WITHDRAWALS**

#### *Settlement Discussions*

14.1 The person assigned to conduct a Case Conference may work as a mediator to explore with the Parties possible ways to resolve all or part of the Case with a settlement agreement.

#### *Parties' Preparation for Settlement Discussions*

14.2 The Parties and their Representatives, if any, must prepare for possible settlement discussions at a Case Conference by having enough information

and understanding of the issues to properly discuss possible settlement of any issues, and enough authority to agree to any possible settlement.

#### *Review Panel's Approval of Settlement*

14.3 If the Parties reach a settlement agreement on part or all of the issues, a Review Panel member may make a final Order to put the partial or full agreement into effect. This may be done by a Review Panel member at a Case Conference or at any other time.

#### *Review Panel Member Involved in Settlement Not Allowed to Hear the Case*

14.4 A Review Panel member who has conducted a Case Conference where the Parties attempt to settle any issues shall not be part of the Review Panel that is hearing and deciding the Case on its merits, unless all Parties agree.

#### *Withdrawal Before Hearing Starts*

14.5 At any time before the start of the Review Panel's Hearing, the Appellant may withdraw their Appeal, or the ESA Party may withdraw their ESA Order or Notice that is the subject of the Appeal or Referral. The Party who is withdrawing must Deliver a written withdrawal to the Reviews and Appeals Office and the other Parties. If the Hearing has not started, a Party's withdrawal will end the Case without any further Hearing or Orders by the Review Panel.

#### *Withdrawal After Hearing Starts*

14.6 If a Party wishes to withdraw their Appeal or ESA Order or Notice after the Review Panel's Hearing has started, the Review Panel's approval is needed before the Hearing and the Case will end. The Review Panel will approve the withdrawal unless the other Party can show that it would be unfair for the Case to end even though the withdrawal would mean this Party will have the same outcome that they are asking for in their appeal.

## **15. MOTIONS**

#### *Motion*

15.1 A Motion is a request by a Party for any Order from the Review Panel, which may include an interim or procedural Order.

#### *Form of Motion*

15.2 A Party must make its Motion in writing, unless the Review Panel allows the Motion to be made during a Hearing or other Proceeding. The Motion must set out:

- (1) the Order that the Party is asking the Review Panel to make;
- (2) a brief statement of the grounds or reasons in support of the Motion;
- (3) the evidence in support of the Motion; and

- (4) any request for the Motion to be heard by a way that is not a written process, including suggested dates if the Party is asking for an oral Motion Hearing.

#### *Delivery of Motion*

15.3 The Party must Deliver its Motion and supporting materials to all Parties and the Review Panel.

#### *Dates for Responses*

15.4 The Review Panel will set the dates for each Party's Delivery of further arguments and materials.

#### *Oral Motion Hearing – Notice*

15.5 If the Review Panel allows the Motion to be heard in an oral Motion Hearing (in-person, telephone, videoconference or other electronic way), the Parties must follow the timing and other procedural requirements set out in the Notice of Motion Hearing.

#### *Oral Motion Hearing – Timing for Delivery of Materials*

15.6 Unless the Notice of Motion Hearing or a Review Panel Order allows for something different:

- (1) the Party making the Motion must Deliver the Motion, together with a summary of its arguments and any materials or cases it intends to rely on, to all Parties and the Reviews and Appeals Office, no later than 10 days before the Motion Hearing; and
- (2) the responding Party must Deliver a summary of its arguments and any materials or cases it intends to rely on, to all Parties and the Reviews and Appeals Office, no later than 5 days before the Motion Hearing.

#### *Motions During a Proceeding*

15.7 If a Party makes a Motion during a Proceeding, such as a Case Conference or Hearing, the Review Panel assigned to conduct that Proceeding may decide the procedure, timing and other Orders for considering the Motion.

#### *Review Panel for a Motion*

15.8 A Motion may be heard and decided by a different Review Panel than the Review Panel appointed to hear and decide the Case, if it is more practical and not unfair to do this.

## **16. ADJOURNMENTS AND RESCHEDULING**

#### *Adjournment Motion*

16.1 A Party may make an Adjournment Motion to ask the Review Panel to change the date or time of a Hearing, Case Conference or other Proceeding.

#### *Adjournment Motion – Content*

16.2 The Party's Adjournment Motion must include:



- (1) detailed reasons for the adjournment;
- (2) how and when the Party asked the other Parties for their agreement to the adjournment, and what their response was;
- (3) the other dates or time periods that are available and acceptable for all the Parties if the adjournment is granted; and where possible, the Parties should give at least three alternative dates that are no more than 20 days before or after the date of the Proceeding.

#### *Late Adjournment Motions*

16.3 Where a Party makes an Adjournment Motion less than five Business Days before the date of the Proceeding, the Review Panel may not have enough time to receive a response from all Parties and decide the Adjournment Motion.

#### *Late Adjournment Motions – Obligation to Attend*

16.4 If there is a late Adjournment Motion, all Parties should still be prepared to attend or participate in the Proceeding and be ready to go ahead if the adjournment is refused by the Review Panel conducting the Proceeding.

#### *Conditions*

16.5 The Review Panel may grant an adjournment on conditions, which may include costs to be paid by the Party to another Party or to the Reviews and Appeals Office.

#### *Administrative Rescheduling*

16.6 Where the Reviews and Appeals Office has scheduled a Hearing, Case Conference or other Proceeding for a date or time without prior consultation with a Party, that Party may ask to change that date or time by making an administrative rescheduling request to the Reviews and Appeals Office if:

- (1) the administrative scheduling request is made no later than one week after the Party received notice of the scheduled date; and
- (2) the originally scheduled date is two months or more after the date of the administrative rescheduling request.

#### *Reviews and Appeals Office May Reschedule*

16.7 The Reviews and Appeals Office has the power to grant or refuse an administrative rescheduling request without hearing from another Party and without referring the request to a Review Panel member to decide.

#### *Adjournment Motion if Rescheduling Refused*

16.8 If a Party's administrative rescheduling request is refused, the Party may make an Adjournment Motion.

## **17. EVIDENCE**

### *Admissibility of Evidence*

- 17.1 The Review Panel may allow and consider evidence that is relevant, even if the evidence may not be admissible in a court. This includes the evidence or testimony of a witness even if it is not given under affirmation or sworn oath. The Review Panel may not admit evidence that would be inadmissible because of any privilege recognized in a court (for example, solicitor-client privilege).

*Limits on Evidence and Witnesses*

- 17.2 The Review Panel may limit the evidence or the witnesses, or the questioning of any witness, if it is satisfied that there is enough to bring out the relevant evidence needed to fairly and usefully decide the issues in the Case.

*Format of Witness Evidence*

- 17.3 The Review Panel may allow a Party to give their witness's testimony in writing or another format. The Review Panel may give directions about:

- (1) how and when a witness may give evidence;
- (2) how and when Parties may disagree with any evidence from another Party's witness; and
- (3) how and when a witness may receive or answer questions from a Party or the Review Panel.

*Witness Summons*

- 17.4 A Party may ask the Reviews and Appeals Office for a witness summons if they believe that this will be useful to compel or encourage a witness to attend at a Hearing to give evidence. Any member of the Review Panel appointed to hear the Case may sign a witness summons or otherwise give written authorization to the Reviews and Appeals Office to place their signature on the summons. The Review Panel may also issue a witness summons on its own, without any request from a Party.

*Witness Summons – Contents of Request*

- 17.5 When a Party asks for a summons, they shall give a brief explanation of the information the witness is expected to give that is relevant to the Case.

*Witness Summons – Delivery Process*

- 17.6 A Party who asks for a witness summons must follow the instructions in the summons form and Deliver in person a paper copy of the summons to the witness together with the payment for attendance that is required under the [Rules of Civil Procedure of the Superior Court of Justice](#).

*Inspections*

- 17.7 The Review Panel may order a Party to make available for inspection any object or place, subject to conditions.

## **18. EXPERT WITNESSES**

### *Expert Witnesses*

18.1 An expert witness is a person whom the Review Panel decides is qualified by their education, training or experience to give their expert opinions about an issue in the Case. An expert witness has the duty to help the Review Panel in a fair and objective way, and not to be biased in favour of any Party.

### *Expert Witness Disclosure Statement – Timing*

18.2 A Party who wishes to use the evidence of an expert witness must Deliver their expert witness disclosure statement to the other Parties no later than 30 days before the start of the Hearing.

### *Expert Witness Disclosure Statement – Content*

18.3 The expert witness disclosure statement must include:

- (1) the area of expertise that the expert will give an opinion on;
- (2) the expert's education, training or experience that qualifies the expert to give expert opinion evidence;
- (3) a brief description of the testimony expected from the expert witness;
- (4) a copy of the expert witness's reports that they may be relying on or using in the Hearing; and
- (5) the contact information for the expert witness.

### *Response to Expert Witness Disclosure Statement*

18.4 If the other Party wants to dispute the qualifications or expertise of the expert witness, they must Deliver their written response with their reasons for their dispute, no later than 20 days before the start of the Hearing or no later than 14 days after receiving the written expert witness disclosure statement, whichever date is earlier.

## **19. HEARINGS**

### *Combining Cases*

19.1 If two or more Cases involve the same Appellant, or the same or similar evidence or questions of fact or law, the Cases may be handled in any combined or coordinated process that is not unfair to the Parties. This may mean appointing the same Review Panel or different Review Panels to hear and decide part or all of the Cases at the same time or in a coordinated manner. This may include:

- (1) combining the Cases to be one Case with one Hearing with one set of evidence and witnesses, and one decision; or
- (2) arranging for one or more coordinated Hearings of separate Cases, which could include some evidence or witnesses that are considered part of more than one Case, followed by separate decisions for each Case.

### *Format of Hearing*

19.2 The Review Panel may hold a Hearing by using one or both of the following formats:

- (1) oral Hearing (in-person, by telephone or videoconference or other electronic format); or
- (2) written Hearing (by e-mail or other written format).

### *Format of Hearing for Administrative Penalty Orders*

19.3 Hearings for appeals of Administrative Penalty Orders shall be held as a written Hearing (by e-mail or other written or electronic format), unless otherwise ordered by the Review Panel.

### *Motion to Change Format of Hearing*

19.4 The Review Panel's Notice of Hearing will give the Parties an opportunity to make a Motion to change the format of the Hearing. To support this Motion, the Party should show that the format they object to would cause significant unfairness, and that it would be fair and practical to allow another format.

## **20. PUBLIC PROCEEDINGS, CONFIDENTIALITY, RECORDINGS**

### *In-Person Oral Hearing*

20.1 The public may attend an in-person oral Hearing, subject to any Orders from the Review Panel.

### *Confidentiality*

20.2 The Review Panel may make Orders to protect privacy or confidentiality, if there may be disclosure of matters involving financial, personal or other sensitive matters, and if these privacy and confidentiality concerns outweigh the public value in having open Hearings and public adjudicative processes.

### *Recording*

20.3 The Review Panel will record an oral Hearing by way of an electronic recording or other way allowed by the Review Panel.

### *No Other Recording*

20.4 Unless the Review Panel allows it, no one may record, broadcast or post online any part of an oral Hearing or other oral Proceeding.

## **21. CONSTITUTIONAL QUESTIONS**

### *Notice of Constitutional Question*

21.1 A Party must Deliver a notice of constitutional question to the Attorney General of Canada, the Attorney General of Ontario, and to the Reviews and Appeals Office and all other Parties, as soon as the circumstances requiring the Notice

become known but not later than 15 days before the question is to be argued, if the Party wishes to:

- (1) question the constitutional validity of any law; or
- (2) claim a remedy under section 24(1) of the [Canadian Charter of Rights and Freedoms](#) in relation to an act or omission of the Government of Canada or Government of Ontario.

## **22. DECISION OF THE REVIEW PANEL**

### *Appointment of Review Panel*

22.1 The Director of Review Panel Appointments may appoint a Review Panel of up to three members of the Review Panel Roster to hear and decide a Case, and designate a Presiding Member to preside over the Proceedings.

### *Industry Representative*

22.2 Where possible, the Review Panel should have at least one member who is an Industry Representative Member of the Review Panel Roster, and who is familiar with the area of the industry that is the subject of the Case.

### *Majority Decision*

22.3 The Review Panel's Order is the decision of the majority of the Review Panel appointed to the Case. Where there is a Review Panel of two members who cannot agree on a decision, the Order of the Review Panel will be the decision of the member who is designated as the Presiding Member of the Review Panel.

### *Member Continues After Term Ends*

22.4 If the appointment of a Review Panel member to the Review Panel Roster ends before that member has finished with a Hearing and final Order, that appointment shall be deemed to continue for the purpose of finishing the Hearing and Order, including any reasons for the Order.

### *Review Panel Continues If Member Unable To*

22.5 If a Review Panel member becomes unable, for any reason, to complete the Hearing, Order or reasons, the remaining member or members on the Review Panel may complete the Hearing and make the Orders and reasons needed to finish the Case.

## **23. COSTS**

### *Costs*

23.1 The Review Panel may order that a Party pay to another Party or to the Reviews and Appeals Office any reasonable expenses or other costs related to the use of the Review Panel processes, including:

- (1) the other Party's expenses or other costs that were directly related to this Party's participation in the Case; and
- (2) the other Party's or the Reviews and Appeals Office's expenses or other costs that were directly related to a Party's behaviour during the Case that was unreasonable or for an improper purpose, or that caused an unreasonable delay.

#### *How and When to Ask for Costs*

23.2 A Party's request for cost will follow the process for the Motion (see Rule 15). Unless the Review Panel allows otherwise, a Party may not ask for costs after the final decision in the Case has been released.

#### *Amount of Costs*

23.3 The amount of costs shall not be more than \$1,000 for each partial or full day of Hearing, or not more than \$500 if there has been no Hearing.

## **24. CORRECTIONS TO ORDERS**

#### *Correcting Errors in Orders and Decisions*

24.1 The Review Panel may at any time, and without having to first hear from the Parties, correct a typographical error, a calculation error, or similar error in its Order or reasons for decision.

#### *Minor Changes to Orders and Decisions*

24.2 The Review Panel may at any time, and without having to first hear from the Parties, make minor changes to an Order or reasons for decision to clarify wording that is unclear or incorrectly stated.

#### *Correcting and Clarifying Orders and Decisions*

24.3 A Party who is asking for a correction or clarification must Deliver their written request to the Reviews and Appeals Office and the other Parties no later than 30 days after receiving the Order or reasons for decision.

## **GLOSSARY OF TERMS**

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### **ACKNOWLEDGMENT OF CASE**

means a notice from the Reviews and Appeals Office to the Parties that the Case has been accepted.

### **ADJOURNMENT**

means the postponement of a proceeding until some time in the future. The adjournment maybe to a specified date or for an indefinite period.

### **ADMINISTRATIVE PENALTY ORDER**

means an order by the ESA to pay an monetary penalty because the ESA Director believes a person is or has been violating the legislation, or an ESA authorization or order (see section 113.8.1 of the Electricity Act, 1998).

### **APPEAL**

means an appeal to the Review Panel made under sections 10(1), 14(1), or 17(2) of Ontario Regulation 187/09, and includes a Referral of ESA Order to the Review Panel.

### **APPELLANT**

means the person who is making an Appeal of the decision made by the Director of Reviews and Appeals, or the person who is named in a Referral of ESA Order to the Review Panel.

### **APPLICANT IN A DIRECTOR'S REVIEW**

means the person who is asking the Director of Reviews and Appeals to review an ESA Order or the ESA's failure to make a requested ESA Order, under section 9(1) or (2) of Ontario Regulation 187/09.

### **APPLICANT IN A DIRECTOR'S HEARING**

means the person asking for a Director's Hearing to dispute a Notice of Proposal or Notice of Provisional Suspension/Refusal to Renew, under sections 113.4 or 113.5 of the Electricity Act, 1998. This person is the applicant for an authorization or the holder of an authorization that is the subject of the ESA Notice of Proposal.

### **APPLICATION FOR AN ESA ORDER**

means a written application by a person to the ESA requesting an Order mentioned in subsection 113 (11) of the *Electricity Act, 1998*.

### **APPLICATION FOR DIRECTOR'S HEARING**

means an application for a hearing before the Director in accordance with section 113.4 of the *Electricity Act, 1998*.

### **APPLICATION FOR DIRECTOR'S REVIEW**

means a written application to the Director for a review of an ESA Order, or a review of the ESA's decision not to issue an order.

### **AUTHORIZATION**

means a licence, certificate or registration issued under section 113.2(1) of the *Electricity Act, 1998*.

### **AUTHORIZATION HOLDER**

means a person who holds an authorization in accordance with sec 113.2(1) of the *Electricity Act, 1998*, and Ontario Regulation 570/05.

### **BUSINESS DAY**

means a day when the ESA head office is open for business, and does not include Saturday, Sunday or statutory holidays.

### **CASE**

means a Director's Review, a Director's Hearing, or a Review Panel Appeal.

**CASE CONFERENCE**

means a pre-hearing conference or a meeting with the Parties that is not a Hearing.

**CONFIDENTIALITY**

Involves a set of rules that limits access or places restriction on sharing or disclosing confidential or private information.

**COSTS**

means any reasonable expenses or other costs related to the use of the Review Panel processes that the Review Panel orders a Party to pay to another Party or to the Reviews and Appeals Office. The amount of costs shall not be more than \$1,000 for each partial or full day of Hearing, or not more than \$500 if there has been no Hearing.

**DELIVER or DELIVERY**

means to provide or serve a document or thing to another person, by:

- (5) personal delivery;
- (6) mail;
- (7) courier; or
- (8) any other way that the Parties agree to or the Reviews and Appeals Office allows.

**DIRECTOR'S HEARING**

A written hearing before the Director of Licensing held in accordance with section 113.4 of the *Electricity Act, 1998*.

**DIRECTOR'S REVIEW**

A written Review by the Director, Reviews and Appeals, held in accordance with section 9 of Ontario Regulation 187/09.

**DIRECTOR OF LICENSING**

means the ESA Director who made the Notice of Proposal or Notice of Provisional Suspension/Refusal to Renew against the Applicant.

**DIRECTOR OF REVIEWS AND APPEALS**

means the Director appointed by the ESA under section 8, or 13 or 17(1) of Ontario Regulation 187/09, or the authorized delegate of this Director.

**DIRECTOR OF REVIEW PANEL APPOINTMENTS**

means the Director appointed by the ESA to be responsible for the Review Panel Roster, or the authorized delegate of this Director.

**DISCLOSURE**

means production of documents, information or materials relevant to the Case enabling the Party to understand facts and allegations in the Case.

**EARLY DISMISSAL**

means the dismissal of a Case by the Review Panel before or without a Hearing.

**EARLY DISMISSAL NOTICE**

means written notice to the Parties from the Reviews and Appeals Office setting out the reasons for dismissal.

**EARLY SCREENING**

means refusal by the Reviews and Appeals Office to open a case for a Notice of Appeal in certain criteria have been met.

**ELECTRICAL CONTRACTOR**

means a person who is licensed to operate an electrical contracting business under Ontario Regulation 570/05.

**ESA GENERAL MANAGER/ESA DIRECTOR**



means the ESA representative who is responsible for making or failing to make the ESA Order that is being disputed.

**ESA ORDER**

means an order under section 113(11) or 113.18.1(1) of the *Electricity Act, 1998*; these are orders related to electrical safety made by the ESA General Manager/Director, or orders to pay administrative penalties.

**EXPERT WITNESS**

means a person approved by the Review Panel to give their expert opinions about an issue in the Case. An expert witness has the duty to help the Review Panel in a fair and objective way, and not to be biased in favour of any Party.

**INTERIM PROCEDURAL ORDER**

means a temporary Order pending a hearing or a final decision.

**LICENSED REPRESENTATIVE**

means a lawyer or paralegal who is licensed and in good standing with the Law Society of Ontario, or any other person who is allowed by the Law Society of Ontario to appear before a tribunal such as the Review Panel.

**LIFTING THE STAY**

means the removal of the stay of an ESA Order by the Director or the Review Panel allowing the ESA to take action to enforce the ESA Order.

**MANAGER OF REVIEWS AND APPEALS**

means the person responsible for the Reviews and Appeals Office.

**MASTER ELECTRICIAN**

means an individual who is licensed under Ontario Regulation 570/05 to assume the responsibilities set out in section 6 for the carrying out of electrical work on behalf of an electrical contractor.

**MOTION**

means a request by a Party for any Order from the Review Panel, which may include an interim or procedural Order.

**NOTICE OF APPEAL**

means a notice submitted by the Appellant to the Reviews and Appeals Office, which includes:

- a) a copy of the Director of Reviews and Appeals' decision that is being appealed;
- b) a complete copy, if applicable, including attachments, of the Appellant's Application for Director's Review or Application for Director's Hearing that led to the Director's decision being appealed;
- c) the Appellant's reasons for appealing; and
- d) any fee required for an Appeal.

**NOTICE OF DIRECTOR'S REVIEW**

means a notice delivered to the Parties by the Reviews and Appeals Office that sets out the written review process, including the timing for receiving more information, evidence and arguments from the Parties.

**NOTICE OF DIRECTOR'S HEARING**

means a notice delivered to the Parties by the Reviews and Appeals Office that sets out the written hearing process, including the timing for receiving more information, evidence and arguments from the Parties.

**NOTICE OF PROPOSAL**

means the notice made by the Director of Licensing under section 113.3 of the *Electricity Act, 1998*, to inform the Applicant that the Director of Licensing intends to refuse, suspend, revoke, or impose restrictions, limitations or conditions on an authorization.

**NOTICE OF PROVISIONAL SUSPENSION/REFUSAL TO RENEW**

means the Notice made by the Director of Licensing under 113.5 of the *Electricity Act, 1998*, to suspend or refuse to renew an authorization on an interim basis because of an immediate threat to the safety of the public or any person.

**NOTICE OF REFERRAL**

means a notice from the Director of Reviews and Appeals delivered to the Appellant and the Reviews and Appeals Office referring the ESA Order to the Review Panel.

**ORAL HEARING**

means a hearing where the Parties appear in person to present their arguments.

**PARTY or PARTIES**

means the person(s) who have a right to participate in the Case.

**PARTIES TO A DIRECTOR'S HEARING**

means the Applicant and the Director of Licensing.

**PARTIES TO A DIRECTOR'S REVIEW**

means the Applicant and the ESA General Manager/Director.

**PARTIES TO A REVIEW PANEL APPEAL**

means the Appellant and either the ESA General Manager/Director who made the ESA Order or the Director of Licensing who made the Notice of Proposal or Notice of Provisional Suspension/Refusal to Renew.

**PRACTICE DIRECTION**

means a supplemental document published by the Reviews and Appeals Office to give more information and practical advice on how to interpret the Rules of Procedure.

**PRESIDING MEMBER**

means the member of the Review Panel who is designated by the Director of Review Panel Appointments to preside over the Hearing of a Case.

**PRIVILEGED INFORMATION**

means information that not subject to disclosure.

**PROCEEDING**

means any event or process in the Review Panel's consideration of a Case, which may include a Case Conference, Motion, Hearing, or other written or oral process.

**PROCEDURAL ORDER**

means an order relating to the form, manner or order of steps taken in a proceeding.

**RECORDING**

means an electronic recording of an oral hearing by the Review Panel.

**REFERRAL OF ESA ORDER**

means a referral by the ESA Director of Reviews and Appeals to ask the Review Panel to hold a hearing about an ESA Order, under section 9(9)(a) of Ontario Regulation 187/09.

**REPRESENTATIVE**

means a person allowed by the Director of Reviews and Appeals to represent a Party in a Director's Review or Director's Hearing, or a lawyer, licensed paralegal or other person authorized to represent a Party in a Review Panel Appeal.

**REVIEWS AND APPEALS OFFICE**

means the office that is responsible for administration and case management for Director's Reviews, Director's Hearings and Review Panel Appeals.

**REVIEW PANEL**

means an independent panel of one, two or three members who are appointed by the Director of Review Panel Appointments to any Proceeding in a Case.

**REVIEW PANEL ROSTER**

means a roster of individuals with adjudicative experience and expertise in relevant industries regulated by ESA, including product safety, licensing and certification, utilities, standards, and the Ontario Electrical Safety Code, appointed to hear appeals under section 10(1), 14(1), or 17(1) of the Ontario Regulation 187/09.

**STAY OF ESA ORDER**

means that the no action can be taken by ESA to enforce the ESA Order until after relevant Proceedings and Appeals have been completed (see sections 9(6) and 17(2) of Ontario Regulation 187/09).

**SETTLEMENT**

means a resolution between the Parties of part or all of the issues, reached either before or after the Case begins.

**WITNESS SUMMONS**

means a summons signed by any member of the Review Panel appointed to hear the Case to compel or encourage a witness to attend at a Hearing to give evidence.

**WRITTEN HEARING**

a hearing conducted in writing (where all information and evidence is provided in writing). In a written hearing, each Party presents their entire case in writing.