
Public Hearings into an Application for Board Approval of a Special Authorization

When is an Application Hearing held?

A public hearing may be conducted when there is conflicting evidence on the file (e.g. applicant information conflicts with submitter information or vice versa). A public hearing may also be held if the application is for a new or unique type of service or if the application raises a significant policy issue.

Why are Application Hearings held?

Public Hearings give the Board an opportunity to hear first hand from applicants, submitters and their witnesses. Applicants have an opportunity to bring witnesses who can speak to the need for the service or other aspects of the application. Public Hearings give submitters an opportunity to bring witnesses who can speak to the potential impact of the application on them. Submitters who are also licensees can bring witnesses who can speak to the state of submitters' service as well as the potential impact of the application on this service. The testimony and questioning of witnesses enables the Board to make findings based on the apparent credibility and reliability of witnesses.

Are all applications decided by Application Hearing?

No, the board decides most applications based on a review of the application file.

What is an Application Hearing like?

Passenger Transportation Board public hearings are less formal than court hearings. Although they are open to the public, the Board generally only hears from the applicant, submitters and witnesses who appear for these participants.

In some cases, such as a minimum route frequency reduction of an inter-city bus, the Board may conduct the public hearing more like a town hall meeting. These are rare.

Who participates in an Application Hearing?

The applicant is always a participant in a public hearing. Submitters may participate in a public hearing, provided they meet the requirements for participation as set out in a Notice of Public Hearing. Occasionally, the Board may invite a person to give evidence at a public hearing.

Are Application Hearings advertised?

The Board publishes Notices of Application Hearings in its Passenger Transportation Board "Bulletin". The Bulletin is posted on the Board's website every Wednesday, except on holidays. The Board may require applicants to provide public notice of their applications. Usually, however, application hearings are only advertised in the Bulletin.

What is a Submitter?

A submitter is a person, other than the applicant, who wants to be a recognized participant at a public hearing and give the Board information relevant to the

application. Anyone who meets the requirements may be a submitter. In practice, however, submitters are usually passenger transportation licensees who oppose the application. Applicants and submitters may call witnesses to give evidence to the Board. These witnesses do not become submitters.

What are the requirements for becoming a submitter?

Submitters must file a written submission with the Board and provide a copy to the applicant. Submitters must also pay a \$50 submission fee. The submission and fee must be delivered to the Board within **21 calendar days** following publication of the Notice of Application Hearing.

What if there is a problem with the date of an Application Hearing?

Application hearing participants may ask the Board for an adjournment of the public hearing. These requests must be in writing and copied to any known submitters and the applicant.

In deciding whether or not to grant an adjournment, the Board must consider:

- ♦ The reason for the adjournment
- ♦ Whether an adjournment would cause an unreasonable delay
- ♦ The impact of refusing an adjournment on the applicant
- ♦ The impact of the adjournment on the public interest

How many Board members sit at Application Hearings?

The Chair of the Board will set a panel of one or more board members to run the application hearing. One panel member will be the Chair of the Panel. The decision of the panel is a decision of the Board.

Usually panels consist of one or two board members.

What is the order of an Application Hearing?

Most public hearings proceed as follows:

1. *Preliminary or Procedural Matters*
2. *Opening Statements* – The applicant makes its statement and the submitters make their statements.

The opening statement is a brief summary of the application or submission, evidence to be presented and outcome desired.

3. *Applicant's Case* - The applicant presents its witnesses and exhibits (documentary evidence). The applicant and its witnesses may be questioned by one or more submitters. The board may limit questioning of a witness if the board is satisfied that the questioning has been sufficient to disclose all relevant matters or that the question is unduly repetitious.

4. *Submitter's Case* – The Submitters present their witnesses and exhibits (documentary evidence). Submitters must ensure witnesses are relevant and succinct. These witnesses may be questioned by the applicant. The Board may limit questioning if the board is satisfied that the questioning has been sufficient to disclose all relevant matters or that the question is unduly repetitious.

5. *Closing Statements* – Submitters give their statements first and the applicant makes its statement last.

Closing statements are brief statements summarizing the significant evidence presented. No new evidence may be given.

6. *Public Hearing Concludes* - Board concludes the public hearing and begins its assessment of the evidence presented. Generally, no new evidence

is accepted by the Board after the public hearing concludes.

7. *Board Decision* – the Board issues its decision with reasons to the applicant and the Registrar. The Board's decision is published in its "Bulletin" and posted on the Board's website.

Note: The Panel Chair may vary the order of the proceedings.

Is there any exchange of information before a Public Hearing?

The Notice of Application Hearing requires submitters provide the board and applicants a written summary of the assertions and evidence that the submitter intends to present at a hearing

Usually the Board requires applicants and submitters to exchange witness lists and documentary evidence that will be entered as exhibits before the application hearing. Exhibits are public information.

The PT Board rules of Practice and Procedure may have additional requirements regarding pre-hearing disclosure of witnesses and evidence

Applicants are expected to introduce any letters of support, service plan information, operating plans and generic supporting documentation as exhibits at the public hearing. Applicants are not expected to introduce detailed financial information or other information of a proprietary nature at a public hearing. This information will be on file for the Board to consider as part of its assessment of the application but will not be available to submitters and the public.

Applicants and submitters must disclose any information that they intend to produce at a public hearing. If the information is not disclosed within times specified by the Board, the Board may refuse to accept the information at a public hearing.

The Board may order disclosure of information either prior to, or at, a public hearing that is relevant to the application.

The Board may accept additional information in confidence if the Board is of the opinion that the information should remain confidential to ensure the proper administration of justice. Rulings of this type are not common place.

What must I take to the Application Hearing?

Parties must bring copies of documents that will be presented as evidence at a public hearing. They must bring a copy for each of the other parties, Panel members and the Hearing Officer. Information on the number of copies required may be obtained by contacting the Appeals and Operations Coordinator at the Board. The contact number is: 250-953-3781.

Are witnesses sworn in?

A hearing officer will ask witnesses to affirm that the evidence that they are giving to the Board is true.

When does the Board make its decision?

The Board provides written decisions to public hearing participants and the Registrar after it has reviewed the evidence and made a decision. Decisions are not given orally at the conclusion of a public hearing.

The Board aims to issue decisions within a reasonable time after the public hearing. Each case has its own set of circumstances, and a specific time cannot be guaranteed. After the participants are notified directly, a summary and full text of the decision is published in the weekly *Bulletin* on the Board's web site.

Where can I find more information on the Application Hearing processes, procedures and requirements?

The above is a general overview of the application hearings. The *Passenger Transportation Act* has sections specific to proceedings of the board and board consideration of applications for special authorizations. The Administrative Tribunals Act has sections relevant to appointment of panels, summary dismissal of applications and the board's discretion to receive information in confidence.

As well, the Board has published Rules of Practice and Procedures that further outline oral application hearings and procedures. The Board also publishes Policy Guidelines which may be relevant to oral application hearings.

Official copies of Acts are available from Crown Publications, 521 Fort Street, Victoria, BC V8W 1E7. Telephone: (250) 386-4636 or <http://www.crownpub.bc.ca/>. Unofficial versions of the Passenger Transportation Act and the Administrative Tribunals Act as well as copies of the Board's Rules of Practice and Procedure and Policy Guidelines are available on the Board's website at <http://www.ptboard.bc.ca>.