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Notice of Grounds for Proposed Tariffs – July 4, 2022

Filed by SOCAN for the following proposed tariffs:

SOCAN Tariff 2.A – Television – Commercial Television Stations (2014, 2015, 2016, 2017, 2018, 2019-2020, 2021, 2022-2024)

SOCAN Tariff 2.D – Television – Canadian Broadcasting Corporation (2015, 2016, 2017, 2018, 2019, 2020-2022, 2023-2025)

SOCAN Tariff 17 – Transmission of Pay, Specialty and Other Television Services by Distribution Undertakings (2014, 2015, 2016, 2017, 2018, 2019-2020, 2021, 2022-2024)

SOCAN Tariff 2.A – Television – Commercial Television Stations (2014, 2015, 2016, 2017, 2018, 2019-2020, 2021, 2022-2024)

Tariff 2.A covers the communication to the public by telecommunication of works in SOCAN's repertoire by a broadcast television station.

Explanation of how Royalties are Determined

Tariff 2.A was last approved by the Board in May 2017 for the years 2009-2013. Prior to the May 2017 decision, SOCAN had proposed a rate increase for 2013, but it withdrew this request. SOCAN also proposed rate increases for the first five years covered by this Notice of Grounds (2014-2018), but withdrew these requests as well, pursuant to an agreement, and requested that the Board certify Tariff 2.A for the years 2014-2018 in the form of the approved tariff.

SOCAN's proposed tariffs for the years 2019-2021 are the same as the approved tariff.

Therefore, for the period of 2014-2021, SOCAN's tariff proposals do not differ from the approved tariff.

SOCAN's proposed tariffs for the years 2022-2024 propose a rate increase to 2.1% of gross revenues. This proposed tariff is the same form as the approved tariff, with two exceptions: the general provisions have been added to the tariff proposal, and the proposed rate has increased from 1.9% of gross revenues to 2.1%.

For these years, SOCAN has proposed a rate increase to reflect the fact that the value of music on broadcast television has increased since the tariff was last approved. The proposed rate is based on the previously-approved tariff and changes in the market since the last contested hearing on Tariff 2.A, which took place in 2004. SOCAN cannot know the full extent of the changes to the market since 2004 that warrant the rate increase until the interrogatory phase of this proceeding. In light of recent jurisprudence from the Federal Court of Appeal, SOCAN is proposing an increase to 2.1% to provide sufficient notice to the Objectors.

Submissions on the Collection of Information

All reporting requirements for 2014-2024, including both reporting forms, are unchanged from the approved requirements and forms. The information collected under the proposed tariff is needed to calculate royalties and to distribute those royalties to rights holders.

Explanation of Changes from Previously-Approved Tariff

The increase in the proposed rate from 1.9% to 2.1% for the years 2022-2024 is the only change from the previously-approved tariff. The reason for this change is explained above.

Official Language

SOCAN wishes to participate in the proceeding in English.

SOCAN Tariff 2.D – Television – Canadian Broadcasting Corporation (2015, 2016, 2017, 2018, 2019, 2020-2022, 2023-2025)

Tariff 2.D covers the communication to the public by telecommunication of works in SOCAN's repertoire by the single broadcaster, the Canadian Broadcasting Corporation (CBC). CBC is the sole user covered by the proposed tariff.

Explanation of how Royalties are Determined

Tariff 2.D was last approved by the Board in 2017 for the years 2013-2014. SOCAN had proposed the same annual royalty rate as approved in 2012, namely the annual royalty of \$6,922,586. The CBC withdrew its objection before the Board and the Board approved the tariff as proposed.

For the years 2015-2022, SOCAN proposed an inflationary increase to the annual royalty. To the extent the proposed rates differ the inflationary adjustment as calculated according to the Board's approved inflationary adjustment method, SOCAN requests that the Board certify the rates for each of the years 2015-2022 that are the maximum SOCAN is entitled to based on the Board's approved inflationary adjustment calculation.

Beginning for the year 2023, SOCAN has proposed a new tariff form for Tariff 2.D. This new form sets out a rate that includes both a percentage of gross revenue and a flat monthly fee. For the years 2023, 2024, and 2025, SOCAN has proposed a monthly royalty of 1.9% of gross revenue, plus a monthly fee of \$764,555.48 / \$775,218.73 / \$785,881.99, respectively. The monthly rates are inflationary increases from the 2006 approved tariff, which is the last year in which the rate was increased. Similar to the proposed rates for 2015-2022, SOCAN requests that the Board's approved inflationary adjustment calculation apply to these proposed rates.

As the CBC's business model moves more towards that of a conventional commercial broadcaster, it becomes appropriate to set tariff terms that approximate the terms in Tariff 2.A. However, since the CBC continues to receive funding from the government, it is necessary to retain the flat fee royalty structure as well. The monthly royalty amounts are inflationary adjustments from the previously-proposed annual fees, divided into 12 monthly amounts.

Submissions on the Collection of Information

Aside from monthly gross income for the years 2023-2025, this tariff does not collect any information from the CBC. The proposed tariff for 2015-2022 does not collect any information from the CBC.

Explanation of Changes from Previously-Approved Tariff

The changes from the previously-approved tariff are as follows:

1. Beginning in 2023, a change from an annual payment to a monthly payment
2. Changes to the annual fee to account for inflation
3. Beginning in 2023, the additional of a percentage of gross revenue component, along with definitions for "gross revenue" and "reference month"
4. A provision allowing SOCAN to audit the CBC's reporting

Official Language

SOCAN wishes to participate in the proceeding in English.

SOCAN Tariff 17 – Transmission of Pay, Specialty and Other Television Services by Distribution Undertakings (2014, 2015, 2016, 2017, 2018, 2019-2020, 2021, 2022-2024)

Tariff 17 covers the communication to the public by telecommunication, by a distribution undertaking, of pay, specialty, and other television services containing works in SOCAN's repertoire.

Explanation of how Royalties are Determined

Tariff 17 was last approved by the Board in May 2017 for the years 2009-2013. Prior to the May 2017 decision, SOCAN had proposed a rate increase for 2013, but it withdrew this request. SOCAN also proposed rate increases for the first five years covered by this Notice of Grounds (2014-2018), but withdrew these requests as well, pursuant to an agreement, and requested that the Board certify Tariff 2.A for the years 2014-2018 in the form of the approved tariff.

SOCAN's proposed tariffs for the years 2019-2021 are the same as the approved tariff. Therefore, for the period of 2014-2021, SOCAN's tariff proposals do not differ from the approved tariff.

SOCAN's proposed tariffs for the years 2022-2024 propose a rate increase to 2.1% of gross revenues. This proposed tariff is the same form as the approved tariff, with three exceptions: the general provisions have been added to the tariff proposal, there are minor changes to the provisions governing the confidentiality of reported information, and the proposed rate has increased from 1.9% of gross revenues to 2.1% (but the low music use rate remains at 0.8%).

For these years, SOCAN has proposed a rate increase to reflect the fact that the value of music on pay, specialty, and other television services has increased since the tariff was last approved. The proposed rate is based on the previously-approved tariff and changes in the market since the last contested hearing on Tariff 17, which took place in 2004. SOCAN cannot know the full extent of the changes to the market since 2004 that warrant the rate increase until the interrogatory phase of this proceeding. In light of recent jurisprudence from the Federal Court of Appeal, SOCAN is proposing an increase to 2.1% to provide sufficient notice to the Objectors.

Submissions on the Collection of Information

All reporting requirements for 2014-2024, including both reporting forms, are unchanged from the approved requirements and forms. There is a minor change to the confidentiality provisions for the years 2022-2024 allowing SOCAN to share reported information with other collectives and service providers provided the service provider signs a confidentiality agreement.

Explanation of Changes from Previously-Approved Tariff

The increase in the proposed rate from 1.9% to 2.1% for the years 2022-2024 and the modified confidentiality terms are the only changes from the previously-approved tariff. The reason for these changes are explained above.

Official Language

SOCAN wishes to participate in the proceeding in English.