



# ENERGY REGULATORY REPORT

*This monthly report summarizes matters under the jurisdiction of the Alberta Energy Regulator (“AER”), the Alberta Utilities Commission (“AUC”) and the Canada Energy Regulator (“CER”) and proceedings resulting from these energy regulatory tribunals. For further information, please contact a member of the [RLC Team](#).*

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**ALBERTA ENERGY REGULATOR****Brine-Hosted Mineral Resource Development Rules and Directive 090, AER Bulletin 2023-06***Oil and Gas - Energy Development*

The AER released *Directive 090: Brine-Hosted Mineral Resource Development* (“*Directive 090*”) to complete the regulatory framework for brine-hosted mineral resource development. *Directive 090* will come into effect once the *Brine-Hosted Mineral Resource Development Rules* (“*BMR*”) are in effect. The *BMR* and *Directive 090* set out the requirements that must be followed throughout the life cycle of a brine-hosted mineral resource development. The *BMR* and *Directive 090* introduce processes and requirements unique to developing brine-hosted mineral resources while incorporating applicable oil and gas regulatory instruments.

Other changes to the regulatory framework for brine-hosted mineral resource development that will come into effect with the *BMR* include:

- *Directive 056: Energy Development Applications and Schedules* has been updated to include well, facility, and pipeline licensing requirements for brine-hosted mineral resource development.
- In the *Oil and Gas Conservation Rules* (“*OGCR*”), the definition of oilfield waste has been updated to include waste from mineral resource development. Also, new provisions have been added to the *OGCR* and the *Geothermal Resource Development Rules* that require an application for amendment when a licensee intends to convert a well licensed under the *Oil and Gas Conservation Act* or *Geothermal Resource Development Act* to a mineral resource well.

As of March 16, 2023, another version of *Directive 056* will be available for OneStop application submission requirements for geothermal and brine-hosted mineral resources and a revised edition of *Manual 012: Energy Development Applications* will be released.

**New Functionality Moving to OneStop, AER Bulletin 2023-07***Oil and Gas - Resource Development*

The AER released new functionality and enhancements to its OneStop platform.

Form Submissions

A “Forms” tab was added to OneStop. The tab will be accessible on the landing page as an entry point for general submissions. The following two forms will be available on the landing page:

- Financial Statement Submission (*Directive 067*, Schedule 3); and
- Closure Nomination Licensee Response (*Directive 088*).

Well Licensing: Brine-Hosted Minerals

The well licensing module was enhanced to accept new applications as well as applications to amend brine-hosted mineral well licences. Improvements include brine-hosted mineral well types and Regulatory Conversion, a type of well licence amendment.

Regulatory Conversion converts existing *Oil and Gas Conservation Act* and *Geothermal Resource Development Act* wells to brine-hosted mineral resource wells, as identified in the *Mineral Resource Development Act*.

Wells Licensing: Carbon Capture Storage

A new Carbon Capture Storage well type was added to the wells licensing module in OneStop, which includes the option to classify a carbon sequestration evaluation well as “Confidential.”

**Increased Risk of Wildfire During Drier Seasons, AER Bulletin 2023-08***Oil and Gas - Wildfire Prevention*

The wildfire season in Alberta spans from March 1 to October 31. Most oil and gas industry-related fires in Alberta occur between April and June. The AER reminded licensees that the risk of brush/grass fires increases significantly during the drier season.

Licensees must consider proactive fire control measures, including developing emergency response plans (“ERPs”) that include wildfire mitigation, prevention, preparedness and response, as well as acquiring and maintaining fire suppression equipment. Emergency planning must address FireSmart and fire prevention issues. Licensees should communicate with local fire departments to coordinate their mutual aid response during an emergency.

Operators and licensees must adhere to AER *Directive 060: Upstream Petroleum Industry Flaring, Incinerating, and Venting* and *Alberta’s Forest and Prairie Protection Act*.

Operators and licensees must ensure that appropriate ERPs are in place to guide their response to incidents presenting significant hazards to the public and the environment under *Directive 071: Emergency Preparedness and Response*.

**New Edition of Directive 056 and Manual 012 - Geothermal and Brine-Hosted Mineral Resources Amendments, AER Bulletin 2023-09***Rules - Applications*

The AER released a new edition of *Directive 056: Energy Development Applications and Schedules* (“*Directive 056*”) and *Manual 012: Energy Development Applications, Procedures, and Schedules* (“*Manual 012*”) as part of the implementation of the geothermal and brine-hosted mineral resource regulatory frameworks. This *Directive 056* update supersedes the March 2 edition that was released with the proclamation of the *Brine-Hosted Mineral Resource Development Rules*.

The update includes the following revisions:

- *Directive 056* and *Manual 012* have been updated to align with OneStop system changes, which include geothermal resources and brine-hosted mineral resources;
- *Directive 056* now includes well, pipeline, and facility licensing requirements for geothermal and brine-hosted mineral development;
- Brine-hosted mineral and geothermal resource development are integrated throughout *Manual 012* to reflect the OneStop application process and procedures with application guidance for public lands and liability management for brine-hosted mineral and geothermal resource development remaining in s 8 of *Manual 012*; and
- *Directive 056* and *Manual 012* also include changes relating to licensing of carbon sequestration evaluation wells, carbon sequestration wells, and other administrative changes.

**New Edition of Directive 059 and New Manual, AER Bulletin 2023-10***Filing Requirements - Consolidation*

The AER released new editions of *Directive 059: Well Drilling and Completion Data Filing Requirements* (“*Directive 059*”) and its companion *Manual 027: Well Drilling and Completion Data Submission System* (“*Manual 027*”).

*Directive 059* was restructured, and procedural guidance was moved to *Manual 027*. These changes are administrative, and no new requirements have been created. Redundant and outdated content has been

removed. Information on daily records of operations and personal information, which was contained in *Bulletin 2010-43*, has been incorporated into *Directive 059*. *Manual 027* updated the fracture fluid water source types to align with the *Water Conservation Policy for Upstream Oil and Gas Operations*.

In addition, the following documents were consolidated into *Directive 059* and *Manual 027* and have been discontinued:

- Well Drilling Completion User Guide;
- Modify Packer Operation (DDS Completion Submission Enhancement from April 1, 2012); and
- *Directive 059* FAQs.

### ***Policy Direction Concerning Unpaid Municipal Taxes, AER Bulletin 2023-11***

#### *Oil and Gas - Markets*

Ministerial Order 043/2023 directed the AER to develop and implement a process that ensures that applicants for a well licence or well licence transfer do not have unpaid municipal taxes above a threshold yet to be determined.

Further information will be released in the coming weeks.

### ***New Edition of Directive 065, AER Bulletin 2023-12***

#### *Oil and Gas - Applications*

The AER released a new edition of *Directive 065: Resources Applications for Oil and Gas Reservoirs* (“*Directive 065*”).

The new edition includes references to the *Geothermal Resource Developments Rules* and the disposal of geothermal heat-depleted fluids, introducing new requirements in ss 4.1.1 and 4.1.3 of *Directive 065*. Additionally, the frequency of injected solvent and chase gas fluid sampling and analysis for miscible flood schemes has been changed from monthly to quarterly.

The AER updated the Enhanced Recovery Scheme form to reflect recent carbon capture utilization and storage directive changes. The AER also made further administrative changes by removing redundant and outdated content.

### ***New Edition of Directive 007 and Manual 011 - Geothermal Amendments, AER Bulletin 2023-13***

#### *Oil and Gas - Facilities*

The AER released a new edition of *Directive 007: Volumetric and Infrastructure Requirements* (“*Directive 007*”) and *Manual 011: How to Submit Volumetric Data to the AER* (“*Manual 011*”) as part of the geothermal regulatory framework implementation.

*Directive 007* and *Manual 011* have been updated to include volumetric and infrastructure reporting requirements for geothermal operations following the *Geothermal Resource Developments Rules* and *Directive 089: Geothermal Resource Development* (“*Directive 089*”).

*Directive 007* has been updated to include reporting requirements for temperature data for geothermal wells and heat and power data for geothermal facilities. Codes have been added to Petrinex so that industry can input infrastructure data for geothermal wells and facilities. This revision also enables the AER to charge fees for late submissions and data discrepancies for geothermal activity reporting. Beginning February 2023, all geothermal well and facility operators must report geothermal activities monthly, starting with the January 2023 reporting month, using Petrinex in accordance with *Directive 007* and *Directive 089*.

*Manual 011* has been updated with information on using Petrinex to report geothermal activities that includes a new appendix summarizing reporting attributes for geothermal wells and facilities. Major changes and additions to *Manual 011* were made in the following sections:

- 1.3.3, “Fees”;
- 2, “Submitting Using Petrinex”;
- 3.4, “Facility Activity”;
- 3.4.2, “Receipts and Dispositions”;
- 3.5, “Well Activity”;
- 3.8.3, “Missing Current Production Month”;
- 5.8.5, “Facility Link”; and
- Tables 1, 2, and 16 and appendices 1, 2, 7 and 11 (new).

## ALBERTA UTILITIES COMMISSION

**2113260 Alberta Ltd. Oyen Community Solar Project Amendments, AUC Decision 27962-D01-2023**  
*Solar Power - Facilities*Application

2113260 Alberta Ltd., operating as Oyen Solar Partners (“OSP”), requested permission to alter the 15-megawatt Oyen Community Solar Project (the “Power Plant”) located near the Town of Oyen, Alberta. OSP requested that the AUC rescind the Power Plant’s community generating designation. The AUC initially approved the Power Plant in Approval 27905-D02-2023.

Decision

The AUC approved the application to alter the Power Plant and rescinded the community generating unit designation.

Applicable Legislation

[Alberta Utilities Commission Act](#), SA 2007, c A-37.2.

[Hydro and Electric Energy Act](#), RSA 2000, c H-16.

[Hydro and Electric Energy Regulation](#) Alta Reg 409/1983.

[Small Scale Generation Regulation](#), Alta Reg 194/2018.

AUC Rule 007: [Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines](#).

AUC Rule 012: [Noise Control](#).

Pertinent Issues

OSP applied for approval of the following changes to the approved Power Plant:

- (a) a reduction of the number of solar panels from 54,000 to 35,672 and a rating increase from 360 watts to 545 watts each;
- (b) a change of solar panel tracking system from fixed-tilt to single-axis tracking; and
- (c) a reduction of the number of inverters from six to five, with a rating increase from 2,500-kilovolt ampere (“kVA”) to 3,600 kVA each.

OSP submitted that there were no changes to the fence line of the Power Plant and that the final update would not result in an increased impact on the environment or local landowners. After the completion of a participant involvement program, no new concerns were raised about the project.

The AUC found that the application filed by Oyen met all requirements set out by AUC Rule 007: *Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines*, the *Hydro and Electric Energy Regulation*, and *Small Scale Generation Regulation*. The AUC was satisfied that the changes to the project are minor, that no person is directly and adversely affected by the proposal and that no significant adverse environmental impact will be caused.

**Acestes Power ULC Duches Solar Project, AUC Decision 27903-D01-2023***Solar Power - Facilities*Application

Acestes Power ULC applied to the AUC for permission to construct and operate the 19.8-megawatt Duches Solar Power Plant Project (the "Project"), located on 320 acres of private, cultivated land near the town of Duches. The Project would consist of approximately 65,492 bifacial solar photovoltaic modules, inverter/transformer stations, underground collector lines, and an internal road network. The Project will be connected to the FortisAlberta Inc. electric distribution system.

Decision

The AUC approved the application from Acestes to construct and operate the Project.

Applicable Legislation

[Alberta Utilities Commission Act](#), SA 2007, c A-37.2.

[Hydro and Electric Energy Act](#), RSA 2000, c H-16.

AUC Rule 033: [Post-approval Monitoring Requirements for Wind and Solar Power Plants](#).

[AEP Sensitive Species Inventory Guidelines \(2013\)](#).

Pertinent Issues

The AUC determined that the applications and the participant involvement program met the information requirements in Rule 007: *Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines*.

Alberta Environment and Parks Fish and Wildlife Stewardship ("AEP") determined that the risk to wetlands and wetland wildlife was high. The risk to wildlife from project fencing and the overall risk to birds was moderate.

To mitigate the Project's environmental impacts, Acestes committed to several mitigating measures. Acestes committed to repeating amphibian field surveys in June 2023 and consulting with AEP if additional mitigation is required. Regarding the risk to wildlife, the AUC imposed, as a condition of approval, that Acestes take steps to avoid work within 100 meters of Class III+ wetlands during the amphibian breeding and dispersal period and that a qualified wildlife biologist monitor any work completed within the setback that cannot be completed outside of that period.

AEP was concerned that the proposed fenceline around a Class IV semi-permanent wetland would create a pocket that may increase the risk of animal entrapment. The AUC encouraged Acestes to modify the fence alignment within the preferred route to the south of the wetland to optimize the use of straight lines and square corners.

**Alberta Electric System Operator Approval of Proposed New Section 201.10 of the ISO Rules, New Alberta Reliability Standards, and Retirement of Existing Alberta Reliability Standards, AUC Decision 27990-D01-2023***Electricity - Rules*Application

As required by s 19(4)(b) of the *Transmission Regulation*, the Alberta Electric System Operator ("AESO") forwarded a recommendation to the AUC to approve the following changes to the Alberta Reliability Standards:



- Adopt proposed COM-001-AB-3, *Communications*;
- Adopt proposed COM-002-AB-4, *Operating Personnel Communication Protocols*;
- Adopt “emergency” term and definition in the Consolidated Authoritative Document Glossary for reliability standards;
- Retire existing COM-001-AB1-1.1, *Communications*; and
- Retire existing COM-002-AB1-2a, *Operating Personnel Communication Protocols*.

The AESO also proposed amendments to s 502.4 of the *Independent System Operator Rules* (“ISO Rules”), *Automated Dispatch and Messaging System and Voice Communication System Requirements*, which, due to administrative renumbering and retitling, resulted in it becoming section 201.10 of the ISO Rules, *Automated Dispatch and Messaging System*.

The AESO requested that all of the reliability standards recommendations and the proposed section 201.10 of the ISO Rules become effective the first day of the month following four full quarters after the approval.

#### Decision

The AUC approved the AESO’s Alberta Reliability Standards recommendations and the proposed new s 201.10 of the *ISO Rules*, as submitted by the AESO.

#### Applicable Legislation

[Transmission Regulation](#), Alta Reg 86/2007.

[Electric Utilities Act](#), SA 2003, c E-5.1.

#### ISO Rules

AUC Rule 017: [Procedures and Process for Development of ISO Rules and Filing of ISO Rules with the Alberta Utilities Commission](#).

#### Pertinent Issues

The AESO identified overlapping voice communication system requirements in COM-001-AB1-1.1, COM-002-AB1-2a and existing s 502.4 of the *ISO Rules*. The AESO further identified that these overlaps in requirements could result in ambiguity, confusion of market participants and potential double jeopardy situations from duplicative requirements.

The AESO recommended that all voice communication system requirements reside in a reliability standard that mirrors North American Electric Reliability Corporation COM-001-3 and accommodates those other voice communication system requirements from existing s 502.4 deemed necessary for Alberta.

The AUC determined that the proposed amendments to s 502.4, which resulted in proposed new s 201.10 due to administrative renumbering and retitling, are not technically deficient. They support the fair, efficient and openly competitive operation of the market to which it relates, and is in the public interest.

The AUC reviewed the consultation conducted by the AESO as required under ss 4 and 5 of Rule 017 and s 19(4) of the *Transmission Regulation*. It was satisfied that the informational and consultation requirements were met.

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***AltaLink Management Ltd. Jurassic Solar+ Project Connection, AUC Decision 28064-D01-2023***  
*Solar Power - Facilities*

Application

AltaLink Management Ltd. (“AML”) applied to the AUC for approval to alter and connect existing Transmission Line 944L (“Line 944L”) to the 220-megawatt (“MW”) Jurassic Solar+ Power Plant, 80-MW battery energy storage project (the “Power Plant”). AML also applied for approval to construct and operate a new self-supported 33-meter telecommunications tower, designated as the Raptor 1080R Radio Site, to be located with the approved Raptor 1080S Substation fence line.

The AUC approved the construction and operation of the Power Plant in Decision 27623-D01-2023.

Decision

The AUC approved the facility applications from AML to alter existing Line 977L, connect it to the Power Plant and construct a new communications tower.

Applicable Legislation

[Alberta Utilities Commission Act](#), SA 2007, c A-37.2.

[Hydro and Electric Energy Act](#), RSA 2000, c H-16.

AUC Rule 007: [Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines](#).

***Amazon Data Services Canada Inc. Emergency Backup Generation Project, AUC Decision 27938-D01-2023***  
*Emergency Backup Power Plant – Facilities*

Application

Amazon Data Services Canada Inc. (“ADS”) applied to construct and operate an emergency backup power generation system consisting of 11 diesel-powered generating units with a total generating capability of 25.6 megawatts.

Decision

The AUC approved the application from ADS to construct and operate the emergency backup power plant.

Applicable Legislation

[Alberta Utilities Commission Act](#), SA 2007, c A-37.2.

[Alberta Ambient Air Quality Objectives and Guidelines](#).

AUC Rule 012: [Noise Control](#).

AUC Rule 007: [Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines](#).

[Environmental Protection and Enhancement Act](#), RSA 2000, c E-12.

[Hydro and Electric Energy Act](#), RSA 2000, c H-16.

[Multi-Sector Air Pollutants Regulation](#) SOR/2016-151.

### Pertinent Issues

Alberta does not have emission standards for diesel generators. Nevertheless, to address requirement TP17 of *Rule 007*, an Air Dispersion Modelling Assessment (the “Assessment”) was conducted by ADS. The Assessment determined that the backup power plant emissions would only exceed the *Alberta Ambient Air Quality Objectives* (“AAAQO”) when all 11 units operated simultaneously. Since the frequency of utility power outages is very low, the probability of this event was determined to be low.

Alberta Environment and Protected Areas confirmed that emergency standby or backup power plants or generators are exempt from approval under the *Environmental Protection and Enhancement Act*. Environment and Climate Change Canada’s *Multi-Sector Air Pollutants Regulation* does not apply to diesel generators.

The AUC found that approval of the project is in the public interest having regard to the social, economic, and other effects of the project, including its effect on the environment.

### **ATCO Gas and Pipelines Ltd. Franchise Agreement with Red Deer County for the Hamlet of Springbrook, AUC Decision 28058-D01-2023**

*Municipal Franchise Agreement – Facilities*

### Application

ATCO Gas and Pipelines (“ATCO Gas”) applied for approval of a franchise agreement with the Red Deer Municipality (“the Municipality”) to provide natural gas utility services and associated functionalities in the Hamlet of Springbrook (“the Services”).

### Decision

The AUC found that: (i) the franchise agreement meets the standards for public convenience and public interest; (ii) the franchise fee is below the allowable maximum of 35 percent; and (iii) the Municipality provided adequate public disclosure of the franchise fee. The AUC approved the franchise agreement and the franchise fee of 10.5 percent (the “Franchise Agreement”).

### Applicable Legislation

[Municipal Government Act](#), RSA 2000, c M-26.

[Gas Utilities Act](#), RSA 2000, c G 5.

AUC Rule 029: [Application for Municipal Franchise Agreements and Associated Franchise Fee Rate Riders](#).

### Pertinent Issues

Municipal councils may, by franchise agreement, grant the right to a person to provide utility services in all or part of the municipality. The AUC previously approved a franchise agreement between ATCO Gas and the Municipality at a higher franchise fee. However, since the Municipality did not sign that franchise agreement, the previous agreement never became operative. The AUC, therefore, rescinded AUC Decision 27722-D01-2022.

Under the proposed Franchise Agreement, the Municipality would grant ATCO Gas the exclusive right to provide the Services. The proposed agreement will be operative for ten years commencing April 1, 2023, alternatively the first business day after the approval of the agreement by the AUC and the adoption of the agreement by Bylaw.

Two principles guide the AUC when considering a franchise agreement. First, the franchise agreement must not exceed 20 years under s 45(1) of the *Municipal Government Act*. Second, the proposed agreement should be “...

necessary and proper for the public convenience and properly conserves the public interests,” as set out in s 49(2) of the *Gas Utilities Act*.

The Franchise Agreement departs from the standard natural gas franchise agreement template approved in AUC Decision 20069-D01-2015 in two ways. First, the definition of “Municipal Service Area” is altered. Secondly, as a Schedule “C”, a map of the boundaries of the Springbrook Hamlet was added. The AUC found that the two changes do not harm the public interest because they are minor and serve to specify the Municipal Service Area and that the term of the proposed agreement is reasonable.

The AUC accepted the franchise fee since the franchise fee is below the upper limit of 35 percent set in AUC Decision 20069-D01-2015. Moreover, the proposed franchise fee was advertised in the widest circulating newspaper in the municipal area, and no objections or concerns were received.

***Canadian Utilities Limited Transfer of Deerfoot Solar Project and Barlow Solar Project from ATCO Power (2010) Ltd. to Deerfoot Barlow Solar Limited Partnership, AUC Decision 28034-D01-2023***  
*Solar Power - Facilities*

Application

Canadian Utilities Limited (“CUL”), a designated owner of a public utility, applied for approval of the transfer of ownership of all of the assets comprising the Deerfoot Solar Project and the Barlow Solar Project (together, the “Projects”) from ATCO Power (2010) Ltd. to ATCO DB Solar GP Services Ltd. (“ATCO DB”) and from ATCO DB to Deerfoot Barlow Solar Limited Partnership (“Deerfoot Barlow”).

Deerfoot Barlow will be co-owned by a new wholly owned subsidiary of ATCO Power (2010) Ltd. and Chiniki Goodstone Solar Limited Partnership, in which two Stoney Nakoda Nations, the Chiniki First Nation and the Goodstone First Nation, are equal partners.

Decision

The AUC granted permission to transfer ownership of all assets, as applied for by CUL.

Applicable Legislation

[Gas Utilities Act](#), RSA 2000, c G-5.

[Public Utilities Act](#), RSA 2000, c P-45.

Pertinent Issues

The AUC applied the no-harm test to assess whether it should approve a disposition that is outside the ordinary course of business under section 101(2)(d) of the *Public Utilities Act* and section 26(2)(d) of the *Gas Utilities Act*. Under the no-harm test, the AUC weighs the potential positive and negative impacts to determine whether the balance favours customers or at least leaves them no worse off, having regard to all of the circumstances of the case.

The AUC determined that the transfers would meet the requirements set out in the no-harm test. Specifically, the AUC found that there will be no harm if the transfers are approved, because:

- The transfers will not adversely affect customers of regulated ATCO Utilities (ATCO Electric Ltd. and ATCO Gas and Pipelines Ltd.);
- The transfers will not affect CUL’s credit rating or have any adverse impact on the financing costs of the regulated ATCO Utilities, the costs of the transfers will not be allocated to the regulated ATCO Utilities and

the transfers are not expected to result in any incremental corporate cost allocations to be recovered through the rates of the regulated ATCO Utilities; and

- The transfers involve unregulated subsidiaries of CUL transacting unregulated electricity generation assets.

The AUC approved the transfers of ownership as filed.

***Enforcement Staff of the Alberta Utilities Commission Settlement Agreement with ATCO Gas and Pipelines Ltd., AUC Decision 27948-D01-2023***

*Markets - Enforcements*

Application

TCB Welding & Construction Ltd. (“TCB”), a customer of ATCO Gas and Pipelines Ltd. (“AGP”), filed a complaint with AUC Enforcement staff (“Enforcement Staff”) concerning a delay in accessing a high-use delivery service rate. TCB alleged that it was overcharged by AGP between December 2020 and November 2021 due to AGP’s delay in switching TCB’s rate from the mid-use delivery service rate to the high-use delivery service rate.

Decision

The AUC approved the settlement agreement between the Enforcement Staff and AGP related to the delay in switching ten customers from mid- or low-use delivery service rates to the high-use delivery service rate.

AGP will pay a one-time administrative penalty of \$14,500 to the AUC and \$93,712 to TCB.

Applicable Legislation

[Alberta Utilities Commission Act](#), SA 2007, c A-37.2.

AUC Rule 013: [Criteria Relating to the Imposition of Administrative Penalties](#).

Pertinent Issues

TCB’s natural gas consumption increased significantly from January 2021 (302.84 gigajoule (“GJ”)) to February 2021 (1,759.56 GJ). AGP completed a meter resize for TCB on February 24, 2021, to accommodate the increased demand. Contrary to its operational practice, AGP did not complete a consumption review at this time to determine whether the increase was sustainable.

Enforcement Staff initiated an investigation, which resulted in a settlement agreement and this application. The settlement agreement describes AGP as failing to:

- (a) make TCB aware of the various rate schedules under which AGP provides service to different customer rate classes;
- (b) endeavour to apply the applicable rate schedule which is most favourable to TCB in a timely fashion; and
- (c) refund the difference in charges under a different rate schedule for a past period when TCB had requested service under an alternative rate schedule that was available to it.

In the settlement agreement, AGP admitted to the contraventions and agreed to the imposition of an administrative penalty of \$14,500. AGP also agreed to pay TCB the rate differential for the ten months in question and refund nine additional customers who were subsequently switched to the high-use rate.

The AUC determined that the magnitude of the proposed administrative penalty is proportional to the seriousness of the contravention. In addition, considering that the purpose of the AUC's sanctioning authority is protective and preventative, not punitive, the AUC found that the quantum of the penalty is reasonable.

The AUC concluded that it is in the public interest to approve the settlement agreement, including the set administrative penalties. The AUC also concluded that the process improvements, as outlined in the settlement agreement, will serve to mitigate the risk of a similar contravention occurring again and should be implemented by AGP.

***Enforcement Staff of the Alberta Utilities Commission Settlement Agreement with the City of Calgary - Enforcement and Administrative Penalty, AUC Decision 27854-D01-2023***

***Markets - Enforcement***

Application

AUC Enforcement staff requested approval of a settlement agreement with the City of Calgary ("Calgary"). In Proceeding 26615, Calgary disclosed confidential information on the public record on two occasions contrary to s 30.11 of Rule 001: *Rules of Practice* and Form RP5 (confidentiality undertakings) (the "Contravention"). The parties agreed to an administrative penalty of \$5,000.

Decision

The AUC approved the settlement agreement between AUC Enforcement staff and Calgary.

Applicable Legislation

[Alberta Utilities Commission Act](#), SA 2007, c A-37.2.

AUC Rule 001: [Rules of Practice - ss 30, 76\(1\)\(e\)](#).

AUC Rule 013: [Criteria Relating to the Imposition of Administrative Penalties](#).

Pertinent Issues

The AUC applies the "public interest test" to determine if it will approve settlement agreements and related applications.

In assessing the seriousness of the contravention, the parties highlighted the following:

- The harm caused was the failure to comply with a confidentiality order of the AUC, which resulted in the public release of information from Proceeding 26615;
- The harm was of limited duration, scope and impact. The information was publicly available for less than two hours following both breaches. It is unknown who, if anyone, may have improperly accessed the information from the first breach;
- ATCO Electric Ltd. notified the AUC of the breaches. There was nothing filed on the record in Proceeding 26615 to suggest harm from the public disclosure;
- The contravention was a repeat offence and not an isolated incident;
- In a subsequent ruling and in Decision 27403-D01-2022, the AUC panel for Proceeding 26615 determined that some of the previously disclosed information was not confidential information and could have been disclosed on the public record; and

- Calgary is funded through Calgary taxpayers, and Calgary taxpayers would pay for any administrative penalty.

Considering the circumstances surrounding the breaches and the agreement reached between the parties, the AUC was satisfied that the public interest test was met by approving the settlement agreement. The settlement agreement requires the City of Calgary to pay an administrative penalty of \$5,000 to the General Revenue Fund of Alberta under ss 63(1)(a) and 63(2)(a) of the *Alberta Utilities Commission Act*.

***FortisAlberta Inc. Inter-Affiliate Code of Conduct Compliance Plan – Extension to Communication and Training Exemption, AUC Decision 27887-D01-2023***  
*Facilities - Consultation*

Application

FortisAlberta Inc. (“FortisAB”) applied for an extension of the conditional exemption granted in Decision 23089-D01-2018 from section 7.2 of the FortisAlberta Inc. *Inter-Affiliate Code of Conduct Compliance Plan* (“Compliance Plan”).

Decision

The AUC approved the application from FortisAB to extend the conditional exemption granted in Decision 23089-D01-2018.

Applicable Legislation

[Red Tape Reduction Act](#), SC 2015, c-12.

FortisAlberta Inc. [Inter-Affiliate Code of Conduct Compliance Plan](#).

Pertinent Issues

FortisAB must apply its inter-affiliate code of conduct when conducting inter-affiliate transactions. The code of conduct is meant to prevent the occurrence of cross-subsidization between FortisAB and its regulated and unregulated affiliates. It is also intended to prevent other circumstances that could cause harm to customers. FortisAB’s code of conduct requires that it develop and implement a plan for compliance with the code of conduct’s provisions.

In Decision 2006-012, FortisAB’s current Compliance Plan was approved. FortisAB was granted a conditional exemption from the requirement under s 7.2 of the Compliance Plan to communicate the contents to all employees and contractors. The exemption allowed FortisAB to train only employees and contractors with “meaningful involvement” in inter-affiliate transactions.

In response to an order issued to FortisAB in Decision 23089-D01-2018, FortisAB filed a letter outlining its formal criteria to require all members of its executive team and certain employees to complete inter-affiliate code of conduct training. The AUC approved the criteria provided by FortisAB to determine which employees have “meaningful involvement” in inter-affiliate transactions and would, accordingly, be required to complete the training under s 7.2 of the Compliance Plan.

FortisAB was also required to include the number of employees and contractors who received training under s 7.2 of the Compliance Plan in its *Inter-Affiliate Code of Conduct Annual Compliance Report*.

The AUC determined that FortisAB did not fulfill this obligation in its 2020 and 2021 annual reports. FortisAB self-reported these instances of non-compliance to the AUC’s Market Oversight and Enforcement Division. The AUC deemed the omission of information from the annual reports to be inadvertent. It was satisfied that appropriate corrective action was taken to avoid the possibility of this omission in the future.

The AUC further evaluated whether continuing the exemption would be reasonable and appropriate. FortisAB indicated that the circumstances under which the exemption was granted in Decision 23089-D01-2018 remained the same. FortisAB also stated that it continues to operate independently of its utility affiliates. All inter-affiliate transactions and compliance certifications would continue to be submitted to the AUC as part of FortisAB's *Inter-Affiliate Code of Conduct Annual Compliance Report*.

The AUC extended FortisAB's exemption from s 7.2 of its Compliance Plan until FortisAB is required to apply for a review of the exemption, subject to the following conditions:

- (a) FortisAB must include the number of employees and contractors who have received training under s 7.2 of the Compliance Plan in its *Inter-Affiliate Code of Conduct Annual Compliance Report*: and
- (b) if FortisAB acquires or creates an Alberta affiliate, it must immediately apply to the AUC for a review of its conditional exemption, at which point the AUC will decide if FortisAB may continue to benefit from the exemption. Similarly, if there are any changes to FortisAB that could materially affect the nature of inter-affiliate transactions, FortisAB must apply to the AUC for review of its conditional exemption.

***Hilda Wind G.P. Inc. Application for an Order Permitting the Sharing of Records Not Available to the Public Regarding the Hilda Wind Power Plant, AUC Decision 28019-D01-2023***  
*FEOC Regulation – Markets*

Application

Hilda Wind G.P. Inc. ("Hilda Wind") filed an application under the *Fair, Efficient and Open Competition Regulation* ("FEOCR"), seeking permission to share records not available to the public related to the Hilda Wind Power Plant between Renewable Energy Systems Canada Inc., RES Canada Support Services L.P. and URICA Energy Real Time Ltd.

Decision

The AUC was satisfied that Hilda Wind had demonstrated that: (i) the sharing of records was reasonably necessary for Hilda Wind to carry out its business; and (ii) the subject records would not be used for any purpose that did not support the fair, efficient and openly competitive operation of the Alberta electricity market. The AUC was also satisfied that the total offer control of the parties would not exceed the offer control limit of 30 percent under s 5(5) of the *FEOCR*. The AUC approved the application.

Applicable Legislation

[\*Alberta Utilities Commission Act\*](#), SA 2007, c A-37.2.

[\*Electric Utilities Act\*](#), SA 2003, c E-5.1.

[\*Fair, Efficient and Open Competition Regulation\*](#), Alta Reg 159/2009.

***Jurassic Solar GP Ltd. Jurassic Solar+ Project Connection, AUC Decision 28049-D01-2023***  
*Electricity - Facilities*

Application

In Decision 27623-D01-2022 (16 November 2022), the AUC approved Jurassic Solar GP Ltd.'s ("Jurassic Solar") 220-megawatt solar power plant with a battery energy storage system (the "Power Plant") and associated Raptor 1080S Substation (the "Substation") in Cypress County.

Jurassic Solar applied to the AUC for approval to construct and operate the 240-kilovolt ("kV") 944AL transmission line (the "Transmission Line"). The Transmission Line will connect the Power Plant to the Alberta



Interconnected Electric System (“AIES”). Jurassic Solar would jointly operate the Transmission Line with AltaLink Management Ltd. for approximately six months following construction completion, after which it would transfer the ownership and operation to AltaLink.

#### Decision

The AUC approved the application from Jurassic Solar for permission to construct and operate the Transmission Line to connect the Power Plant to the AIES.

#### Applicable Legislation

[Alberta Utilities Commission Act](#), SA 2007, c A-37.2.

[Electric Utilities Act](#), SA 2003, c E-5.1.

[Hydro and Electric Energy Act](#), RSA 2000, c H-16.

AUC Rule 007: [Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines](#).

[ISO Rules](#).

#### **Mojek Resources Inc. Gage Bitcoin Mine Power Plant, AUC Decision 27527-D01-2023** *Facilities - Consultation*

#### Application

Mojek Resources Inc. (“Mojek”) applied for approval to construct and operate a 96-megawatt natural gas-fired power plant designated as the Gage Bitcoin Mine Power Plant (the “Power Plant”). The application indicated that the Power Plant would be constructed within the existing Gage battery site in the Municipal District of Fairview No. 136 (the “Municipality”).

#### Decision

The AUC denied Mojek’s application because it determined that it did not meet the participant involvement program requirements under Rule 007: *Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines* (“Rule 007”) and that the proposed Power Plant was not eligible for the exemption under s 2(1)(b) of the *Electric Utilities Act* (“EUA”).

#### Applicable Legislation

[Alberta Utilities Commission Act](#), SA 2007, c A-37.2.

[Electric Utilities Act](#), SA 2003, c E-5.1.

[Hydro and Electric Energy Act](#), RSA 2000, c H-16.

AUC Rule 007: [Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines](#).

AUC Rule 012: [Noise Control](#).

### Pertinent Issues

Following the notice of application filed by the AUC, the Municipality filed a statement of intent to participate. The Municipality raised concerns regarding noise mitigation, the requirement to obtain a development permit and a road use agreement, and outstanding municipal taxes. While the AUC denied the Municipality standing, it was allowed to file written submissions outlining its concerns.

#### *Mojek's Participant Involvement Program*

The AUC reviewed the application filed by Mojek and determined that approval would not be in the public interest. The AUC denied the application to construct and operate the Power Plant because Mojek's application did not meet the participant involvement program requirements under *Rule 007* and because Mojek did not establish that the Power Plant qualifies for exemption under s 2(1)(b) of the *EUA*.

To meet the requirements of *Rule 007*, Mojek was required to provide personal notification to stakeholders within 2,000 meters of the edge of the Power Plant and conduct personal consultation with stakeholders within 800 meters of the Power Plant. Mojek failed to conduct personal consultations with stakeholders, as required by *Rule 007*.

Mojek failed to actively consult with potential stakeholders other than the Municipality, within 800 meters of the Power Plant. Mojek advised that it provided the notification package to these stakeholders but that no feedback was received in response to its participant involvement program materials. Mojek did not take any further steps to engage with and consult with these stakeholders as required under *Rule 007*.

Further, Mojek's notification materials did not contain the minimum information prescribed by *Rule 007*, including comprehensive information about the general nature of the potential impacts of the Power Plant.

The AUC determined that stakeholders were not afforded a meaningful opportunity to understand the potential impacts of the Power Plant and raise any concerns.

#### *Section 2(1)(b) of the Electric Utilities Act*

S 2(1)(b) of the *EUA* provides an exemption from the *EUA* for "electric energy produced on the property of which a person is an owner or a tenant, and consumed solely by that person and solely on that property." If the conditions of s 2(1)(b) are not met, the owner of the bitcoin mine is obliged to take electricity from the Alberta Interconnected Electric System and the owner of the Power Plant is obliged to exchange the electric energy through the power pool.

The application filed by Mojek indicated that the requirements of s 2(1)(b) of the *EUA* would be met as the Power Plant would not be connected to the Alberta Interconnected Electrical System, and Mojek would be the owner and operator of the Power Plant and the Bitcoin Mine. However, during the oral hearing of this proceeding, Black Powder Inc., Mojek's management consultant, provided contradictory evidence. Submissions from Black Powder Inc. indicated that a third party would own and operate the bitcoin mine at the Power Plant site and consume the electric energy produced by Mojek. Upon request from the AUC, Mojek confirmed this information.

The AUC therefore determined that the exemption requirements were not met.

#### *Municipal District of Fairview No. 136 Submissions*

The AUC noted that, at the time of this proceeding, the tax balance outstanding by Mojek was significant, representing five percent of the Municipality's revenue. It said that Mojek had made no payments since 2018. The AUC acknowledged Mojek's intent to repay its taxes by December 2023 under a Municipal Tax Payment Plan. However, the AUC saw no evidence of Mojek's financial ability to repay the taxes or payments made to the Municipality under the Municipal Tax Payment Plan. In addition to the outstanding taxes, the AUC had concerns with Mojek's non-compliance history with the AER, resulting in the AER taking over Mojek's assets in multiple

cases. In considering whether the current application met the public interest test, the AUC would have benefited from evidence from Mojek establishing a stronger track record of proactively addressing both its tax liability with the Municipality and its non-compliance history with the AER.

The AUC denied Mojek's application without prejudice to any future application in which Mojek proposes to construct and operate the Power Plant, provided the future application meets the requirements of the applicable legislation, regulations, and rules.

### ***The City of Red Deer 2021-2023 Transmission Facility Owner General Tariff Application, AUC Decision 27878-D01-2023***

Rates - True-up

#### Application

As a transmission facility owner ("TFO"), the City of Red Deer ("Red Deer") recovers the costs of providing regulated electric transmission service through a transmission tariff that the AUC must approve. Red Deer recovers its approved rates through the Alberta Electric System Operator ("AESO").

In its 2021-2023 general tariff application ("GTA"), Red Deer applied for approval of a revenue requirement of approximately \$5 million for 2021, \$5.21 million for 2022 and \$5.61 million for 2023.

#### Decision

The AUC found that Red Deer's proposed revenue requirements for 2021, 2022 and 2023 will result in just and reasonable rates and approved the GTA from Red Deer as filed. The AUC also provided additional guidance for future Red Deer GTAs concerning the timing of GTA filings and the contents of Red Deer's capital business cases.

#### Pertinent Issues

Red Deer's applied-for revenue requirement is comprised of actual and forecast costs, including operating costs and a return of, and a fair return on, its investment in transmission assets necessary to provide regulated electric transmission service to customers.

#### Timing

Red Deer filed the 2021-2023 GTA on December 15, 2022. As a result, the AUC assessed the GTA in 2023. While transmission rates have been approved on a retrospective basis in the past, the AUC noted that it prefers to approve rates on a prospective basis for TFOs in Alberta. While it did not impact Red Deer's 2021-2023 revenue requirements, the AUC noted that the GTA should have been filed no later than the fourth quarter of 2021. Accordingly, the AUC encouraged Red Deer to file future GTAs in a timely manner to be consistent with the prospective rate-setting process for TFOs in Alberta.

#### Capital Business Cases

The AUC noted that additional detail in Red Deer's capital business cases would have provided a better understanding of Red Deer's capital expenditures. The AUC reminded Red Deer to ensure that it considers the case criteria for capital projects outlined in Alberta Energy and Utilities Board's Decision 2000-9 and Bulletin 2006-25 in future GTA filings. In particular, the AUC encouraged Red Deer to outline: the alternatives considered; the reasons why specific alternatives were rejected and the proposed alternative was chosen, including a comparison of costs; the need for the specific project; any incremental capital and operating costs; any benefit to customer or utility service; and the expected in-service date of the proposed capital project.

Transmission Tariff True-up

Red Deer calculated the required January 2021 through March 2023 true-up amounts and the new monthly tariff effective April 1, 2023, as follows: for 2021, a refund of \$274,733; for 2022, a refund of \$62,505; for January 1, 2023, to March 31, 2023, a charge of \$83,387; and from April 1, 2023, to December 31, 2023, a monthly charge of \$467,397.

The AUC found that the annual tariff and monthly rates for the 2021-2023 test years, as proposed by Red Deer, correspond to the respective revenue requirements and approved them on a final basis. The AUC also approved a one-time refund to the AESO of \$253,851 for the revenue surplus resulting from the difference between Red Deer's interim and final monthly tariffs between January 1, 2021, and March 31, 2023.