

Rule 032

Specified Penalties for Contravention of AUC Rules

The Alberta Utilities Commission (Commission) has approved this rule on December 11, 2018 with an effective date of January 1, 2019.

1 Definitions

In this Rule “Commission” means the Alberta Utilities Commission.

2 Application

- (1) This rule applies to the contravention of AUC rules listed in the penalty table.
- (2) For purposes of this rule, the 120-day rolling period is the period which is 120 days immediately before the date on which the contravention of the AUC rules occurred.

3 Notice of specified penalty

- (1) The Commission may issue a notice of specified penalty under Section 63.1(1) of the *Alberta Utilities Commission Act* if the Commission is satisfied that a person has contravened one or more of the AUC rules listed in the penalty table.
- (2) A notice of specified penalty will set out
 - (a) the name of the person that is required to pay the specified penalty;
 - (b) the date or dates of the contravention;
 - (c) the AUC rule that was contravened;
 - (d) a description of the conduct of the person named, its officers, personnel, or agents, the activity or omission that resulted in the contravention and any other particulars relating to the contravention;
 - (e) a description of the facts upon which the Commission relied to conclude that a contravention had taken place;
 - (f) the amount of the specified penalty for each day of the contravention, if the contravention continued for more than one day;
 - (g) whether any adjustment to the specified penalty was made due to self-disclosure of the contravention by the person or to the payment of a service guarantee to a customer under Rule 003: *Service Standards for Energy Service Providers*;

- (h) the date, no less than 30 days from the date of issuance, on which the payment of the specified penalty is due and the person or persons to whom the amount or any part of the amount of the specified penalty is payable;
 - (i) a notice that failure to pay the specified penalty will result in a hearing or other proceeding before the Commission; and
 - (j) information about how a person that disputes the issuing of the notice may notify the Commission of such dispute and that a hearing or other proceeding before the Commission will result.
- (3) The Commission shall send the notice of specified penalty to the person in the position identified in the penalty table.
- (4) The Commission must issue a notice of specified penalty within
- (a) two years after the date on which the Commission first knew, or in the circumstances ought to have known of the contravention; or
 - (b) four years after the date on which the contravention occurred;
- whichever period expires first.

4 Factors to be considered

In making a decision on whether to issue a specified penalty, the Commission may consider the following

- (a) the impact on any person adversely affected by the contravention;
- (b) the number of persons affected by the contravention;
- (c) the timeliness of the action taken by the person who committed the contravention to address the conduct, activity or omission that resulted in the contravention;
- (d) the level of satisfaction of the person affected by the contravention resulting from any action taken by the person who committed the contravention;
- (e) if the conduct, action, or omission that resulted in the contravention was an isolated instance or a recurring problem; or
- (f) any action taken by the person who committed the contravention to ensure compliance in the future.

5 Penalty assessment

- (1) The Commission shall determine the amount of the specified penalty in accordance with this section and the penalty table.
- (2) For contraventions of the AUC rules listed in the penalty table, the Commission will escalate the amount of the specified penalty at the level of reoccurrence in the penalty table, in accordance with the number of contraventions, which have been issued in the 120-day rolling period.

- (3) When a service guarantee has been paid to a customer in accordance with Rule 003, the Commission will reduce the specified penalty by that amount.
- (4) When a person voluntarily discloses that it has contravened an AUC rule listed in the penalty table, the Commission shall determine the amount of the specified penalty in accordance with this section and the penalty table and may reduce the amount of the specified penalty by 50 per cent.
- (5) A self-disclosure statement referred to in Section 5(4) must
 - (a) be made in writing to the Commission prior to the Commission contacting the person about the contravention;
 - (b) include the name, address, telephone number and email address of the person;
 - (c) describe in detail the contravention, including the AUC rule that was contravened, the date and duration of the contravention of the AUC rule, a description of the conduct, activity or omission that resulted in the contravention, any mitigating or aggravating factors in relation to the contravention and any other particulars relating to the contravention;
 - (d) describe in detail any action taken to resolve the issue with the person affected by the contravention; and
 - (e) provide any other information the person considers to be relevant to the events that took place.

6 Posting of notice of specified penalty

- (1) The Commission will make public any notice of specified penalty issued for a contravention of AUC rules under Section 63.1(1) of the *Alberta Utilities Commission Act* at the same time the notice of specified penalty is issued and post the notice on the Commission's website.
- (2) Where a person has failed to pay the specified penalty or a person disputes the notice of specified penalty, the Commission will
 - (a) indicate on its website that the specified penalty has not been paid or that the notice of specified penalty is being disputed; and
 - (b) once the Commission has held a hearing on a disputed specified penalty and rendered a decision with respect to the specified penalty, post a link to the Commission's decision on its website.

Penalty Table

Nature of contravention	First contravention in a 120-day rolling period	Second to fifth contravention in a 120-day rolling period	Sixth to tenth contravention in a 120-day rolling period	Eleventh to fifteenth contravention in a 120-day rolling period	Sixteenth to twentieth contravention in a 120-day rolling period	Twenty-first and subsequent contraventions in a 120-day rolling period
<p>Failure to comply in whole or in part with the following sections of AUC rules:</p> <p>AUC Rule 003 Sections 3.4.1(2), 3.4.1(3), 3.4.1(4)</p> <p>AUC Rule 021 Sections 2.4, 2.5, 7.4, 9.4.6.14, 9.6.3, 9.6.4, 9.6.8</p> <p>AUC Rule 028 Sections 2.4, 2.5, 7.3, 8.4.6.12, 8.6.3, 8.6.4, 8.6.7</p>	<p>A specified penalty of \$500</p> <p>Notice of specified penalty issued to the senior executive of business unit of the person involved in the contravention.</p>	<p>A specified penalty of \$1,000</p> <p>Notice of specified penalty issued to the senior executive of business unit of the person involved in the contravention.</p>	<p>A specified penalty of \$2,500</p> <p>Notice of specified penalty issued to the senior executive of business unit of the person involved in the contravention.</p>	<p>A specified penalty of \$5,000</p> <p>Notice of specified penalty issued to the senior executive of business unit of the person involved in the contravention.</p>	<p>A specified penalty of \$7,500</p> <p>Notice of specified penalty issued to the most senior executive of the person (i.e., president, chief executive officer) or its parent company if the entity is a wholly-owned subsidiary or affiliate, or chief compliance officer, if applicable.</p>	<p>A specified penalty of \$10,000</p> <p>Notice of specified penalty to the most senior executive of the person (i.e., president, chief executive officer) or its parent company if the entity is a wholly-owned subsidiary or affiliate, or chief compliance officer, if applicable.</p>