

HAVING YOUR SAY AT AN AUC HEARING

This *AUC Information* explains the purposes of Alberta Utilities Commission (AUC) public hearings and provides information to assist you in participating effectively.

What is an AUC hearing?

An AUC hearing is the traditional tool used by the AUC to reach a decision when issues cannot be otherwise resolved. It provides all parties involved with the opportunity to publicly express their views before an AUC panel in a fair and orderly forum, similar to a court of law. This allows the Commission to make a fully informed decision.

Do many applications go to hearing?

There are three instances where the AUC will likely conduct a hearing:

1. **A Utility Rate Application** – Most rate applications are decided following an oral public hearing, with the exception of those handled in a written process or a negotiated settlement. A rate application to the AUC is required when a utility wants approval to change its rates. The rate application is typically dealt with in a two-phase process. The first phase determines how much revenue the utility requires to operate and earn a fair return on its investment. The second phase determines the amount of revenues that should be recovered from each rate class.
2. **Facility Projects** – Some applications for facility projects, such as transmission lines, may require a public hearing.
3. **Customer Complaint** – Occasionally a public hearing may be required to resolve a customer complaint regarding a utility.

How do I find out about hearings?

- The AUC or the Utility making an application will provide a written Notice of Hearing to directly affected landowners in the case of a facility application. Written notice, generally communicated by email is sent to parties who registered in similar previous applications for rate hearings.
- The Notice of Hearing may be published in daily and/or weekly newspapers.
- Hearing notices are available on the AUC Web site at www.auc.ab.ca.

Companies involved in large facility projects usually hold an open house to explain their proposed project, answer citizens' questions, and address the community's concerns.

The Notice of Hearing provides interested parties with the following information:

- date, time, and location of the hearing,
- application number and nature of the application,
- a contact for the company that filed the application,
- AUC information, and
- the due date for filing objections or statements of intent to participate.

What is an intervener?

Those with concerns about an application may submit their views in writing to the AUC and thus become an intervener. An intervener may be opposed to or in support of an application or may wish to express concerns. A group or association that wishes to present a collective point of view may also be an intervener.

How do I register as an intervener for a hearing?

If you wish to register as an intervener, you must write a letter and submit it to both the applicant and the AUC by the deadline stated in the Notice of Hearing.

You must submit a copy of your intervention to the applicant. Please follow the directions specified in the Commission's notice as the process may vary slightly between applications. All written submissions from the applicant and interveners become public documents, available to all participants. In this way, everyone is able to review everyone else's submissions prior to the hearing and is better able to prepare responses. Please be aware when you are making a written submission that the information you include will be publicly available through the Board's website.

What should I include in my written submission to become an intervener?

Interventions must deal with the application in question and should not relate to general industry concerns. A written submission or intervention is usually a letter or report that clearly outlines your views and concerns about the application/issue, giving reasons why and how you will be or are affected.

If you have concerns, try to suggest reasonable alternatives that could alleviate impacts. Explain what conditions, if any, you would like to see imposed on the utility, should the application receive approval. If you are in support of an application, the AUC needs to hear from you too. Hearings are to learn about all sides of a situation. Be aware, though, that the AUC cannot use unsubstantiated information.

Try to support your beliefs with facts specifically related to the application.

What's the next step?

Once you have provided your written summary of concerns and objections to the applicant and AUC, you need to prepare for the hearing.

May I get information from the company?

Yes. The company is required to provide interested parties with a copy or access to a copy of the application, including any supporting information. All current applications are also available online through the AUC's electronic application processing system.

Sometimes more information is necessary for someone to fully understand the applicant's position. In this case, you may ask for more information through an information request (IR). The result of an IR should clarify, simplify, and create an understanding of the issues. *Rule 001* provides an outline for the procedure for making an IR; it is available on the AUC Web site at www.auc.ab.ca.

What are the Rules of Practice?

Rule 001 is similar to a road map in that it provides directions for any type of proceeding before the AUC. *Rule 001* consists of regulations that explain how and what must be done when a participant is faced with a variety of situations during a proceeding. The AUC expects all applicants and participants in AUC matters to be familiar with *Rule 001*.

Should I form a group to intervene?

Research and preparation of a submission can take a lot of time and effort, and you may decide to form or join a group with other people if they share your concerns or objections. A group submission may be very helpful, as it indicates broader support for the views expressed. Whether you prepare your submission alone or as a group, it is best to do very thorough work and provide solid evidence to support your points of view.

Do I need to hire a lawyer?

Although there is no requirement that a lawyer represent you during the hearing, having a lawyer represent your interests may be helpful to you. The AUC hearings are, in some ways, like a civil case before a judge. Lawyers are trained to present a client's case, cross-examine the other side's witnesses, and make arguments on what the AUC's decision should be. The lawyer can also assist in arranging for experts, if they are needed to make your case. As an applicant or intervener you are able to represent yourself. In either case, AUC staff will be available to assist you with any procedural questions.

Do I have to pay for all of this?

The rules regarding the recovery of costs by participants are set out in AUC Rule 009: *Energy Utility Cost Claims*. As these rules are periodically updated, before spending money, consult AUC [Rule 009](#).

How long does an AUC public hearing last?

Every case is unique; hearings may last anywhere from one day to several weeks, depending on the nature of the application and the complexity of the issues.

May I attend an AUC hearing just to listen?

Certainly. AUC hearings are open to the public.

What is a hearing panel?

A hearing panel is usually a group of Commission Members generally three who have been assigned to conduct the hearing on behalf of the AUC.

What happens at an AUC hearing?

An AUC hearing follows a formal process to ensure that everyone has a say:

- Opening Remarks – The panel chair explains the purpose of the hearing and introduces the members of the panel and AUC staff. Then participants in the hearing register an appearance, coming forward and introducing themselves.
- Preliminary Matters – Procedural and legal matters are presented, such as adjournment requests or the scheduling of a specific witness at a particular time. The Chair of the panel may request that participants deal with Board staff outside of the hearing in order to make efficient use of the hearing time.
- Applicant (Application) – The applicant presents its case and may question its own witnesses. All witnesses are required to swear an oath that the evidence they are providing is truthful. Then interveners, AUC staff, and the Commission panel may cross-examine those witnesses. Once cross-examinations are complete, the applicant may question the witnesses again to clarify any issues that arose.
- Intervenors – Intervenors next present their cases. After the intervener gives direct evidence, the lawyer for the applicant may cross-examine, followed by the other intervenors who wish to cross-examine. AUC staff and members of the panel may then cross-examine the intervener. Following cross-examination, the intervener is entitled to clarify any matters that arose.
- Rebuttal Evidence by Applicant - Once the above process is complete with all the intervenors and their witnesses, the applicant may submit additional evidence to address new points raised by intervenors' evidence.
- Final Argument or Summation – Each participant may provide an explanation of what he or she believes are the important aspects of the issues involved and what decisions they feel the panel should make. This is the final opportunity to ensure that the Commission and all participants understand what your position is on the issues. The applicant may respond to intervenors' arguments.

- Closing of Hearing – The panel chair announces the hearing is completed and that the decision of the panel and the reasons for it will be given at a later date. Occasionally a ruling will be provided orally from the bench.

Decision Report – The Commission’s final reasoning and decision on the application is issued several weeks to several months after the hearing in a decision report.

When will the application be decided?

As part of Commission policy, a decision must be issued within 90 days of the close of a hearing (the last date on which parties provide oral or written submissions or argument). The hearing panel releases a decision report, which gives the panel’s decision and reasons for the decision. The decision report is made available to all participants and is available to the public on the AUC website, www.auc.ab.ca.

Can I really affect the final decision?

Yes. In making its decisions, the AUC is committed to addressing all valid concerns put forward by interveners. If the application is approved, special conditions may be attached to the decision that take into account the specific concerns of the interveners.

May an AUC decision be appealed?

Yes. An appeal of the Commission’s decision may be made to the Alberta Court of Appeal on questions of jurisdiction or law, meaning that the AUC did not have the right to make the decision or that it made a mistake about the law. Permission to appeal the decision must be obtained from the Court of Appeal by making an application for leave to appeal within 30 days after the Commission’s decision is issued. In certain circumstances, the court may grant an extension. These rules are not set by the AUC.

When may an AUC decision be reviewed?

The AUC may decide to review its own decision under certain specific conditions such as if it can be shown that it made an error of law or fact or made the decision outside of its jurisdiction or if new information becomes available.

Additional Information

For additional information on the AUC or its processes or if you have general questions about utilities in the province of Alberta, contact the AUC: Monday to Friday (8 a.m. - 4:30 p.m.), at 403-592-8845. Complaints about your utility service can be directed to Consumer Relations at 780-427-4903 (for toll free access, dial 310-000 then enter 780-427-4901 and press 1).

This AUC Information No. 2 is one in a series.

- [No. 1](#) *What Is the Alberta Utilities Commission?*
- [No. 2](#) *Having Your Say at an EUB Hearing*
- [No. 3](#) *Electricity and the EUB*
- [No. 4](#) *Natural Gas Utilities*
- [No. 5](#) *How to Make a Complaint to the AUC*

AUC Offices

Head Office	403-592-8845
--------------------	--------------

Fifth Avenue Place
Fourth Floor, 425 First Street SW
Calgary, Alberta T2P 3L8

Edmonton Office	780-427-4901
------------------------	--------------

HSBC Bldg.
Tenth Floor, 10055 – 106 Street
Edmonton, Alberta T5J 2Y2

To call the above numbers toll free, dial 310-0000.