

October 22, 2020

To our stakeholders

## **Letter to stakeholders on expert committee recommendations**

Finding ways to improve how we regulate is an essential part of what we do. To do this well, we need to make the most of our resources and powers, drive effectiveness and innovation, and reduce red tape and regulatory burden.

In its [2019-2022 strategic plan](#), and as part of its ongoing efficiency agenda, the AUC has made a commitment to reduce regulatory burden and improve the efficiency of its processes and procedures. This supports the Alberta government's goal of reducing regulatory burden.

Earlier this year an independent expert committee led by Kemm Yates, QC was established by the Commission to look into the processes and procedures of rate proceedings so as to make them more productive and efficient. After a series of consultations carried out by the committee earlier this year, it prepared a report which has today been posted on the Commission website at [www.auc.ab.ca](http://www.auc.ab.ca).

The report of the AUC Procedures and Processes Review Committee sets out specific recommendations on how the Commission's adjudicative processes may be improved. I encourage you to read the report as it sets out the direction in which we intend to go in relation to rate setting processes, including hearings.

The report considers adjudicative hearing and pre-hearing processes generally, as well as the role of the Commission and the role of parties in those processes. After considering the report, the Commission has come to the following conclusions:

The Committee's first recommendation is:

- That the Alberta Utilities Commission apply an overarching, assertive case management approach to the development and implementation of the Commission's procedures and processes and the implementation of the Committee's specific recommendations.

The overarching recommendation of the committee was that the AUC has the existing ability and powers to "own the process" and improve regulatory efficiencies. By being more direct and assertive the Commission will have more efficient and productive procedures and processes. The Commission accepts this recommendation, and will undertake a culture shift to move away from an emphasis on adversarial approaches to more flexible, proportional procedures tailored to the needs of the Commission to ensure public interest issues are addressed.

Rule amendments alone are not the remedy. It will require a shift to ingrained beliefs, practices and incentives and strong, consistent, long-term leadership from the Commission, its staff and stakeholders.

- The report also recommends that hearings should be made more efficient and effective by more comprehensive use of Commission-led case-management practices. Recommendations include increased use of issues scoping, increased use of timetables and scheduling, more efficient use of discovery limited to documents that are necessary to the exercise of the Commission's functions, and other related improvements to its decision making processes.
- With respect to the role of parties, the report acknowledges the role of intervention in AUC proceedings, however the report also recommends that the Commission be more rigorous in relation to cost awards and be more engaged and assertive in supervising the submissions of parties both prior to, and during, a hearing.
- The report does not recommend developing a legislative benchmark for time periods within which Commission decisions ought to be rendered. However, recognizing that the current delays being experienced in cases before the Commission may well be caused by a culture that tends to drag out decision-making processes, the Commission believes legislation could be an effective option to focus the Commission and stakeholders on our commitment to efficiency.

We are now moving to implementing the report and its recommendations.

We have tasked an internal team to implement recommendations that can have immediate effect. Two examples are the adoption of assertive case management practices and the use of a decision-writing template that is issue-driven. Further details of these changes are set out in a separate [bulletin](#) issued by the Commission today.

Implementation of some of the remaining matters may require changes to the Commission's [Rule 001: Rules of Practice](#). I have asked AUC General Counsel Doug Larder to create a task force from participants involved in the Commission's existing [Regulatory Burden Reduction Roundtable initiative](#). It will be charged with proposing amendments to AUC rules, as required, to give effect to the recommendations. I have asked that those proposed amendments be ready for submission to the Commission by the end of the year.

Continuously improving our processes is key to our role as an effective regulator. As part of our overall efficiency agenda, we have retained an independent consultant to benchmark the performance of the Alberta Utilities Commission against other comparable North American regulators. Our objective is to have the fastest turnaround times in North America. We will share the results of that work when it is available.

Depending on the benchmarking results, it is possible that the report, even if fully implemented, will fall short of assisting the Commission in improving its processes and procedures to the point that it meets its new target benchmark.

That has led the Commission to explore other means to perform its responsibilities. We have engaged an expert independent panel to explore the use of evaluative mediated settlements. Our expectation is that we will be developing rules to facilitate greater use of settlements and to make the Commission's expectations for settlement clearer. The results of that work will also be shared when available.

Lastly, the Commission will be initiating a consultation on [Rule 022: Rules on Costs in Utility Rate Proceedings](#), with a view to give effect to the recommendations to be more rigorous in relation to our cost practices.

Effective implementation of the report and its attendant process reforms will require support and collaboration from all stakeholders in our decision making processes. Crafting effective procedures is important, but as the report clearly points out, shifting the prevailing culture is critical to transformational change.

I look forward to working with all of you as we move ahead with our efficiency agenda for the benefit of the utilities sector and the broader public.

Carolyn Dahl Rees

Chair