

December 4, 2020

To our stakeholders

In June of this year, Associate Minister of Natural Gas and Electricity Dale Nally began a review of the Alberta Utilities Commission. The policy direction for the Commission was to focus on streamlining regulatory processes and reducing red tape in order to provide more certainty to investors, the electricity market and consumers.

The Commission has made progress with the introduction of new approaches in its adjudicative procedures. The purpose of this letter is to provide additional information and rationale for further improvements the Commission intends to make as it works to reform its decision-making processes.

The changes being made are guided by an overall objective for the AUC. That objective is for the Alberta Utilities Commission to be the North American benchmark for operational and regulatory efficiency and effectiveness, which supports the financial health of regulated companies, protects the interests of consumers and ensures conditions for competition exist.

The [AUC 2019-2022 Strategic Plan](#) established efficiency and reducing regulatory burden as a key objective. In the stakeholder consultation roundtables conducted over the past year, you told us that an important area for improvement in reducing regulatory burden and red tape was the speed and efficiency of our processes involving hearings and rendering decisions, particularly for rate cases.

To assist us in reviewing our decision-making practices, we retained external advisors to make recommendations on how the Commission's processes may be improved and how the changes might be implemented.

In an October 22, 2020 [letter to stakeholders](#) the Commission adopted reforms to its adjudicative hearing processes recommended in the Report of the AUC Procedures and Processes Review Committee authored by an expert panel led by veteran regulatory lawyer Kemm Yates, QC. The Commission has made progress with the introduction of these new approaches and procedures and will provide detailed results of our progress in our AUC Annual Report Card.

Further to our aspirational goal of being the North American benchmark for regulatory timeliness, we retained a third-party expert to conduct a comparative analysis of application processing timelines of comparable regulatory agencies in Canada and the U. S. The objective was to gain information about common regulatory processes in order to develop benchmark performance measures and identify opportunities to explore the application of different processes within the AUC.

After a thorough review, a summary of which is [available here](#), the results revealed that the AUC's existing performance standards and actual performance results for complex cases do not compare favourably with comparable regulators in both the U.S. and Canada.

As a result, we will be developing new performance metrics that are more aggressive than those applied in the past. The result will be guidelines that reduce the amount of time required to process an application and obtain a decision. For example, our objective for a full-process rate proceeding is to reduce the timeline from 295 days, and, in cases where partial or complete settlement of the rate case can be achieved, to a target of 180 days.

In order to achieve this ambitious goal, the expert report suggested that the use of alternative dispute resolution by U.S. public utility commissions, as an alternative to litigation, was a significant factor in improving the timeliness of decision making.

The Commission has had [Rule 018: Rules on Negotiated Settlements](#) in place for some time, but it has been, for various reasons, surprisingly little used.

In an effort to explore alternatives to the traditional hearing process, the Commission retained an expert panel led by Calgary-based lawyer and independent arbitrator and mediator Jack Marshall, QC, to make recommendations on the potential application of mediated settlements to the Commission's decision-making processes.

That report is [available here](#). It makes several recommendations regarding mediated settlements that are intended to result in a process that will be less extensive, more cost effective and more timely than the traditional hearing process. The Commission accepts the report's recommendations and is moving towards implementation.

As was the case with the process reforms to its rate case practices and procedures, the adoption of a mediated settlement approach may require the introduction of practice guidelines or changes to the Commission's [Rule 001: Rules of Practice](#).

Full and effective implementation of the reforms described in this letter will enable the Commission to better carry out its mandate, particularly as the sector grows more complex. It will allow scarce resources to be more effectively allocated while offering parties alternatives to traditional litigation. Finally, these reforms align with the Alberta government's policy to reduce regulatory burden and to make it easier to do business in Alberta.

The Commission will continue to update stakeholders as developments occur in the implementation of the process improvements discussed in this letter.

You have my commitment that we will remain focused on modernizing how we regulate. This letter and the reports we commissioned are full of great opportunities and we are already making good progress in many areas. We are excited to continue that work with you.

Yours truly,

Carolyn Dahl Rees
Chair
Alberta Utilities Commission