

Bulletin 2020-17

May 8, 2020

AUC creates independent, expert committee to assist in improving efficiency of rates proceedings

This bulletin summarizes the Commission's plans to continue its important discussions with stakeholders about reducing regulatory burden and lag, and provides an update on initiatives underway or planned to pursue further improvements.

These efforts were the subject of three stakeholder roundtables last fall and two related bulletins issued by the Commission, [Bulletin 2019-18](#) and [Bulletin 2020-02](#).

Following the first roundtable on October 4, 2019, the Commission immediately initiated a number of measures intended to bring more efficiency into our adjudicative process primarily in connection with rate and facility applications. These included:

- More technical meetings aimed at reducing the number of information requests.
- Directing parties to narrow issues and negotiate outcomes where possible.
- Conducting focused, shorter hearings, some with immediate decisions.

Not all of the initiatives have as yet met their goals, but Commission members and staff are genuinely committed to introducing more innovation to improve the timelines in our decision-making process.

In November 2019 the AUC published its strategic plan in which it committed to publish an annual report card setting out, among other things, what has been done and plans to further remove unnecessary regulatory burden. As part of that report card, the AUC intended to ask the companies the AUC regulates and other stakeholders for their views on whether the AUC's burden reduction efforts are succeeding. The AUC proposed to solicit those views through an industry impact assessment.

Towards this goal, the AUC published Bulletin 2020-02 on January 17, 2020. For reasons explained in that bulletin, the industry impact assessment was to focus on the AUC's non-adjudicative regulatory functions. However, the overwhelming response from participants centred on the AUC's adjudicative process related to rate applications.

Stakeholders encouraged the AUC to focus its burden reduction efforts in this area because rates proceedings take too long and the associated regulatory lag is having an unfavourable impact on the utilities sector. Because of the COVID-19 pandemic, we are delaying the formal industry impact assessment for one year, although we will continue with our own internal assessment of process efficiencies.

However, given the views that were expressed in response to Bulletin 2020-02, the Commission has decided to focus its attention on improving the effectiveness and timeliness of the processes and procedures used in rates proceedings in our ongoing discussions. Other process efficiency initiatives (such as the reduction of agency overlap, a “trusted traveller” approach for certain applications, fixed hearing dates and more) will proceed unabated for AUC facility applications, but will not be part of the AUC’s next planned roundtable. We will report on our progress and activities in relation to those efficiency efforts in our annual report card.

The AUC is also introducing a change to the composition of our next roundtable, partly because of the COVID-19 pandemic and partly because a smaller group is more likely to make progress in advancing adjudicative efficiencies. The AUC will establish a technical advisory working group of five or six people comprised of representatives from the regulated utilities and intervener groups. The working group and the Commission will identify issues and propose solutions and report back to a wider audience and senior representatives of stakeholders. Once the technical advisory working group is in place, we will propose an agenda and schedule a time to meet. However, given the pandemic’s demands on everyone’s resources, we will schedule the next roundtable when a degree of normalcy returns to the workplace.

To assist the AUC, the Commission has established an independent AUC Procedures and Processes Review Committee. The committee members have deep regulatory experience and includes C. Kemm Yates, QC, noted regulatory counsel; David J. Mullan, Queen’s University professor emeritus in administrative law; and Rowland J. Harrison, QC, a former long-serving member of the National Energy Board (now the Canada Energy Regulator).

The committee will review the Commission’s rate application adjudicative processes and procedures and make recommendations to AUC Chair Mark Kolesar on how process and procedure steps can be made more efficient, or eliminated altogether. An invitation from the committee to submit comments is appended to this bulletin.

Stakeholders can use the [AUC’s Engage consultation tool](#) to provide written submissions directly to the committee. Engage can be accessed from the AUC website on the ribbon in the top-centre of the page. Those responding should focus specifically on the 11 issues identified in the committee's terms of reference while at the same time feeling free to raise other matters bearing upon the committee's mandate.

The committee’s recommendations will inform discussion with the technical working group referenced above in identifying improvements that can be implemented to reduce regulatory burden and streamline the process for rates proceedings. The Commission looks forward to your continued interest and participation in the improvement of utility regulation in Alberta.

Douglas A. Larder, QC
General Counsel

Committee on the Procedures and Processes of the Alberta Utilities Commission

Invitation to interested stakeholders to provide comments

As announced in AUC Bulletin 2020-17, dated May 8, 2020, we have been established as an ad hoc committee “to look into the processes and procedures of the Commission for rate-setting cases with the objective of making them more efficient and productive.” Our terms of reference are found below.

As part of its work, the committee looks forward to consulting with stakeholders.

The current COVID-19 pandemic imposes obvious constraints in this regard. We are, therefore, initiating our consultations by inviting written submissions.

The committee has already reviewed or will be reviewing relevant material provided by the Commission. This includes the written submissions that were received by the Commission in its regulatory burden stakeholder consultation announced on July 17, 2019, the transcript of the October 4, 2019 roundtable held by the Commission, the results of that roundtable as reported in Bulletin 2019-18, and summaries of the October 28 and 29 AUC Strategic Plan roundtables, as well as the filed responses to Bulletin 2020-02. We have also reviewed certain submissions made directly to the office of the Associate Minister of Red Tape Reduction.

Stakeholders are invited to make written submissions directly to the committee through [AUC Engage](#). Those responding should focus specifically on the 11 issues identified in the committee's terms of reference while at the same time feeling free to raise other matters bearing upon the Committee's mandate.

Written submissions, along with contact details, should be filed through AUC Engage by May 22. The committee may also conduct telephone or video consultations as it considers appropriate.

C. Kemm Yates, QC
Committee Chair

David J. Mullan

Rowland J. Harrison, QC

Committee on the Procedures and Processes of the Alberta Utilities Commission

Preamble

The Alberta Utilities Commission has established an ad hoc committee to look into the processes and procedures of the Commission for rate-setting cases with the objective of making them more efficient and productive. The need to examine the Commission's processes and procedures has been a general discussion point for some time and has most recently received attention as a result of the Alberta government's policy initiative to reduce red tape for Alberta's businesses.

The Commission is committed to reforming its processes and procedures and will look to the committee's findings and recommendations to inform its approach.

Terms of reference

The committee shall be composed of Kemm Yates, QC, David Mullan and Rowland Harrison, QC. Kemm Yates shall chair the committee. Without limitation, the committee is asked to review the various steps of the decision making processes used by the Commission in its rate-setting function.

The committee is to propose how the Commission's processes can be made more efficient within the requirements of the principles of procedural fairness, and how the new approaches should be implemented.

The committee will work with Commission staff as necessary to complete its work. The Commission will provide any information and material required by the committee including a description of the process steps typically followed by the Commission upon the filing of a rate application; submissions made by industry and customer groups at roundtables on regulatory burden conducted by the Commission in October 2019; submissions made directly to government by the utilities industry in 2019 and 2020; bulletins related to the roundtables issued by the Commission and copies of Improving Regulation Reports filed by the Commission with the provincial government.

The Commission is particularly interested in advice on the following issues but the committee is not restricted to only these issues:

1. Scoping of issues
2. Scheduling
3. Confidentiality
4. Hearings — written or oral
5. Interrogatories
6. Cross-examination — whether to allow and if so when
7. Motions
8. Argument — written, oral, timing, order
9. Adequacy of the record

10. Panel assertiveness in the hearing room

11. Content and length of decisions

Committee members will consult with Commission members, Commission staff, and counsel and participants in Commission rate-setting proceedings, as deemed necessary by the committee.

The advice on recommended reforms should include a discussion of associated risks, in particular legal risks, arising from moving from traditional procedures and methods to more innovative and flexible approaches as well as any recommendation for legislative change that will improve the efficiency of the Commission's process and procedures.

The committee has full discretion to determine its processes, and will use its best efforts to provide a written report to the chairman by June 15, 2020.