



AUC

Alberta Utilities Commission

Enforcement Report April to December 2019

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1 Summary

This report summarizes the Alberta Utilities Commission's compliance and enforcement activities between April and December of 2019. This is the first in a series of reports that will be issued twice per year on an ongoing basis.

AUC enforcement staff are responsible for investigating and ensuring compliance with AUC decisions, orders, rules and legislation under its jurisdiction. The enforcement program contributes to the AUC's strategic plan objective to increase efficiency and limit regulatory burden. By applying a flexible dispute resolution and compliance process, enforcement staff are able to facilitate Commission decisions on a high volume of matters using minimal resources in the following areas:

- a) Landowner and customer complaints related to electric facilities, rates and terms and conditions of service.
- b) Contraventions of service standards, such as disconnections in error, incorrect billing and other AUC rules for which the Commission may issue notices of specified penalty.
- c) Enforcement proceedings, including proceedings concerning a disputed notice of specified penalty, where enforcement staff serve as the applicant.

1.1 Observations from this period

Overall, electric facilities and service providers operate to a high standard

There are approximately 3.1 million sites in Alberta that receive gas and electricity service. With each site billed monthly, more than 37 million utility bills are issued each year. The vast majority of these sites receive service and billing with no concerns. However in a small number of instances, customers receive disruptions in their utility service and billing that can result in material harm. Between April and December of 2019, enforcement staff completed 12 investigations of customer complaints regarding terms and conditions of service and rates matters, and investigated 137 matters related to contraventions of service standards and AUC rules.

Similarly, Alberta's interconnected electric system has approximately 26,000 kilometres of transmission lines and 132 generating units, and the operators of those facilities overwhelmingly comply with AUC decisions, orders, rules and related legislation. In this reporting period the Commission completed eight investigations into complaints from landowners and other parties concerning the approval and operation of electric facilities.

Parties are cooperative in resolving matters

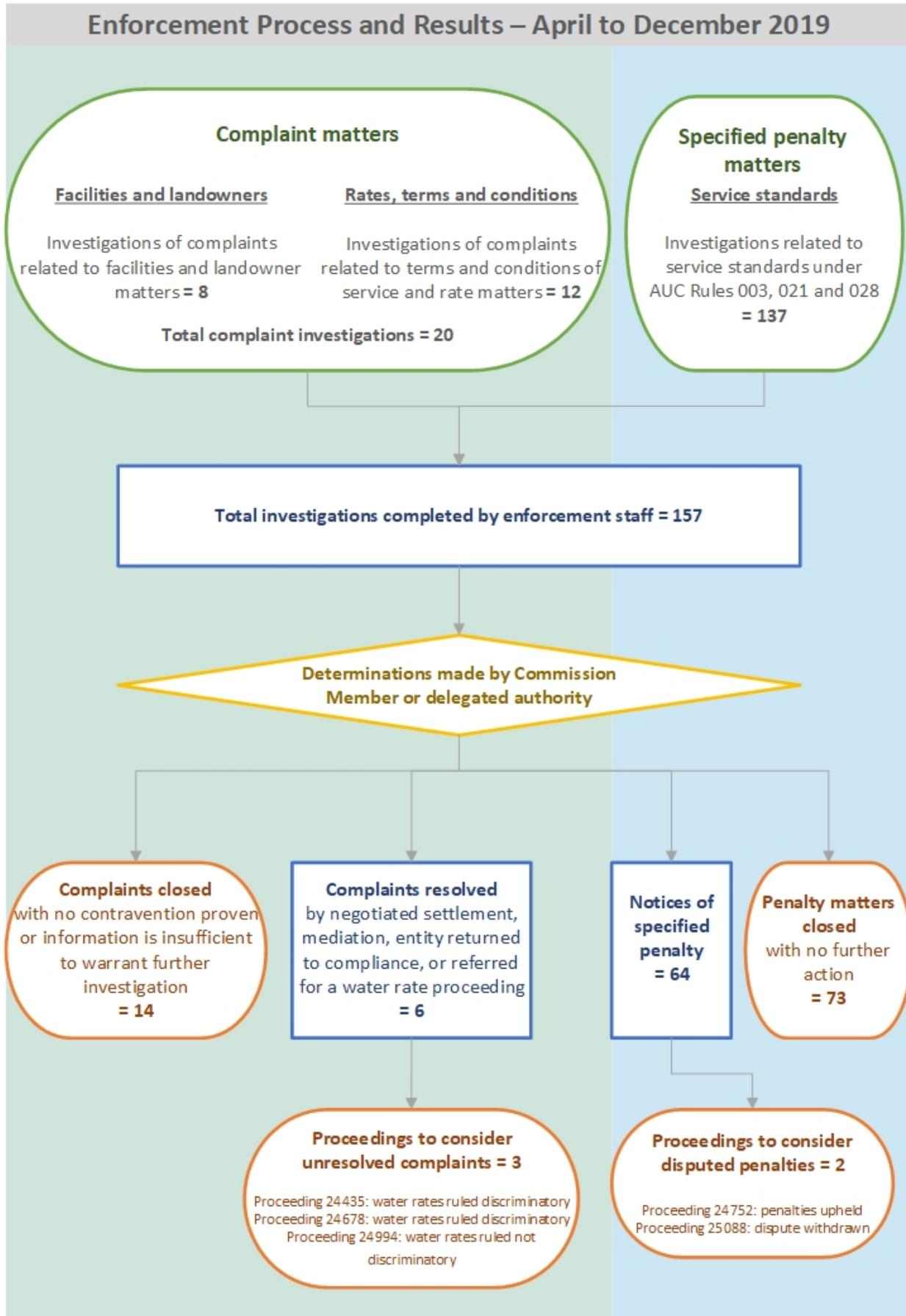
Of the 137 service standard contraventions investigated, 91 per cent were self-reported. Of the 20 complaint matters investigated, only three were referred to a proceeding. Enforcement staff have generally observed a willingness to cooperate and resolve matters in all of its investigations. To facilitate improved service for energy consumers, enforcement staff intend to share observations regarding repetitive contraventions of service standards with parties on a regular basis through future reports.

First notices of specified penalty

As an efficient means to address contraventions related to services standards and AUC rules, on June 11, 2018, Section 63.1 was added to the *Alberta Utilities Commission Act* granting the AUC authority to issue specified penalties, and on January 1, 2019, [Rule 032: Specified Penalties](#) came into effect.

Enforcement activities this period were largely devoted to the development, implementation and execution of the first notices of specified penalty. Generally, the Commission has only exercised its discretion to issue notices of specified penalty where material harm had occurred to a customer, namely in the form of an interruption of service, financial harm, or time used by the customer while attempting to resolve a problem.

The following flow chart summarizes the Commission's enforcement process and its results from April to December of 2019.



2 Enforcement process

Enforcement staff receive matters from five sources:

- a) The Commission's Assistance and Information Services group.
- b) The Utilities Consumer Advocate.
- c) The Alberta Electric System Operator.
- d) Consumers, as a complaint through enforcement@auc.ab.ca.
- e) Market participants as a self-report.

Once a determination is made by a Commission member, or a person with authority delegated by the Commission, as the case may be, enforcement staff record the determination and with the assistance of legal counsel assigned to the enforcement team, prepare all documents necessary to execute the directed outcome. Those outcomes include:

- a) Complaints and allegations that are closed when the assessment of the matter reveals that no contravention can be proven on a balance of probabilities, or when insufficient information is available to warrant further investigation.
- b) Complaints and allegations that are resolved by negotiated settlement, mediation, or the entity in question voluntarily returning to a state of compliance. These matters may further result in an enforcement proceeding if unresolved.
- c) Notices of specified penalty issued for contraventions of service standards under AUC [Rule 003: Service Standards for Energy Service Providers](#), [Rule 021: Settlement System Code Rules](#) and [Rule 028: Natural Gas Settlement System Code Rules](#). These matters may further result in a proceeding if a notice of specified penalty is disputed.
- d) Letters advising that no notice of specified penalty will be issued for contraventions of service standards under AUC rules 003, 021 and 028 or where alleged contraventions are not proven.

For complaint matters, if enforcement staff resolve a complaint without formally engaging a market participant, then the matter is closed without the issuance of a letter. In more serious or complex instances where enforcement staff have engaged a market participant in an investigation, a letter is issued to both the complainant and the market participant advising parties of the results of the Commission's investigation and any conclusions or findings. Notices summarizing the investigation are posted on the [recent enforcement resolutions](#) page of the AUC website.

Investigations regarding water rates under Section 43 of the *Municipal Government Act* may also be referred for a proceeding.

Notices of specified penalty and letters advising of no penalty are redacted to remove customer personal information, and are posted on the [issued specified penalties](#) page of the AUC website.

Administrative penalties are paid into the General Revenue Fund as directed by the *Alberta Utilities Commission Act*. Unless otherwise directed, specified penalties are also paid into the General Revenue Fund. All or a portion of a specified penalty may be directed to be paid to a person. Enforcement staff track the payment of specified penalties and reconcile payments with the Department of Energy to ensure compliance with the Commission's orders.

The following sections provide further detail regarding each of the following activities carried out by enforcement staff.

- Investigating complaints.
- Investigating matters related to specified penalties.
- Serving as the applicant in enforcement proceedings.

3 Complaint investigations

The AUC regulates certain electric and gas utilities to ensure that customers receive safe and reliable service at just and reasonable rates. It also ensures that electric facilities are built, operated and decommissioned in an efficient and environmentally responsible way. There are generally two categories of complaints and allegations concerning utility operations that arise:

- a) Facility and landowner matters = 8 (40 per cent)
- b) Terms and conditions of service and rate matters = 12 (60 per cent)

Table 1. Resolved complaints

Complaint matters resolved Apr-Dec 2019	Facilities and landowners	Rates, terms and conditions	Total
AltaLink	1		1
ATCO Electric	1	1	2
ATCO Gas	1		1
BowArk Energy	1		1
ENMAX Power	1		1
Direct Energy		5	5
EPCOR	1	2	3
FortisAlberta	2	1	3
Town of Devon		1	1
Village of Delia		1	1
Village of Wabamun		1	1
Total matters resolved	8	12	20

3.1 Complaint investigations by subject - facilities and landowners

Between April and December of 2019, enforcement staff completed eight investigations of complaints related to facilities and landowner matters.



Letters were issued at the conclusion of five of these investigations and notices were posted to the Commission's website. Those matters are summarized below.

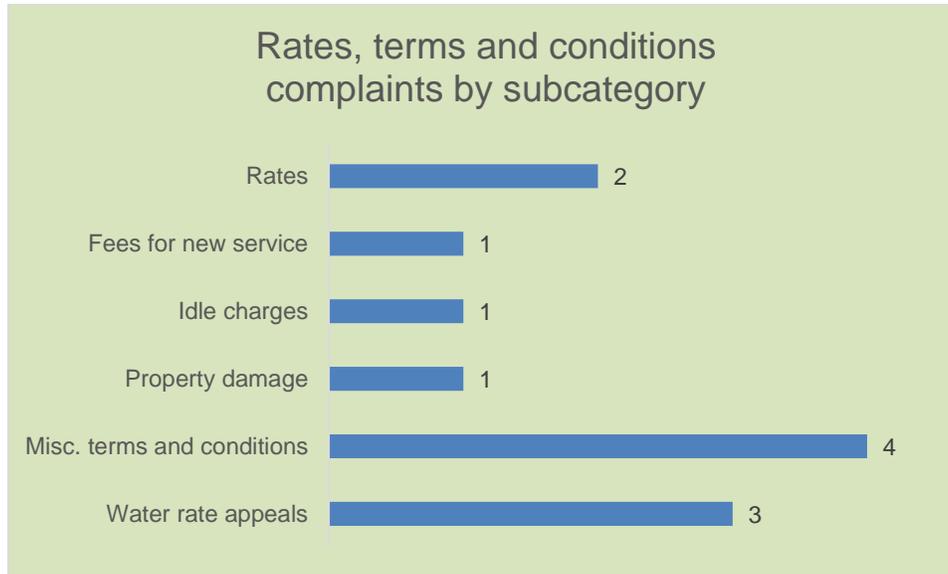
Date and category	Subject	Result
May 2, 2019 Fire on transmission line	On October 17, 2017, several wood poles on Transmission Line 7L760 broke during a severe windstorm. Fire personnel from the Municipal District of Acadia reported that a fire started at one of the poles on Transmission Line 7L760.	AltaLink shared its best practices for fire prevention in a presentation hosted by the AUC. AltaLink also committed to modifying the protection system circuitry in its follow-end breakers over a two-year period.
May 2, 2019 Reporting requirements	Compliance with Decision 23548-D01-2018 and Power Plant Approval 23548-D02-2018	BowArk Energy Ltd. submitted a construction progress report stating that it had not yet commenced construction of the Queenstown Power Plant, and that it hoped to begin construction by the fall or winter of 2019, with an in-service date prior to December 31, 2020.
July 5, 2019 Fire on distribution line	A landowner alleged that an insulator ignited a fire on a distribution pole on his property which spread to his land and pump house.	Commission enforcement staff concluded that the fire originated at the top of the pole near the location of the insulator, however the cause of the fire was indeterminate. FortisAlberta provided evidence that the line had been inspected and maintained within six months prior to the fire, and there was

		no evidence to suggest a failure of FortisAlberta's protection system.
September 20, 2019 Location of distribution feeder	Complaints were received from several Montgomery area residents regarding ENMAX Power Corporation's proposed installation of new electrical infrastructure to service the new Calgary Cancer Centre. These complaints arose in response to these residents' concern that ENMAX had circumvented the AUC approval process by erroneously identifying the feeder as a distribution line.	Enforcement staff reviewed the proposed infrastructure and the applicable legislation regarding approvals necessary for siting and constructing electric distribution infrastructure. In enforcement staff's view, the voltage associated with the new proposed electrical infrastructure categorizes these facilities as distribution facilities and not transmission facilities which would require AUC approval.
December 17, 2019 Environmental damage	A complaint was received from a nearby resident alleging that FortisAlberta Inc. had improperly disposed of wood poles near the town of Killam.	Enforcement staff reviewed the decision of the Flagstaff Regional Subdivision and Development Appeal Board. In that decision, the board imposed conditions on the owner of the laydown yard to conduct annual testing and imposed operational conditions on this owner, which appeared to have been met. These conditions imposed on the laydown yard owner are not conditions imposed on FortisAlberta. There was no evidence to indicate that FortisAlberta had not met the requirements to operate and maintain the electric distribution system in a safe and reliable manner.

3.2 Complaint investigations by subject - rates, terms and conditions

Between April and December of 2019, enforcement staff completed 12 investigations related to matters concerning rates, and terms and conditions of service.

Enforcement staff also investigate water rate appeals under Section 43 of the *Municipal Government Act*. Under that section a person who uses, receives or pays for a municipal utility service may appeal a service charge, rate or toll made in respect of it, to the Commission. If the Commission is satisfied that a person's service charge, rate or toll (1) does not conform to the public utility rate structure established by the municipality (2) has been improperly imposed, or (3) is discriminatory, the Commission may order the charge, rate or toll to be wholly or partly varied, adjusted or disallowed.



After the resolution of eight of these investigations, letters were issued and notices posted to the Commission's website. Those matters are summarized below.

Date and category	Subject	Result
April 9, 2019 Water rate appeal	Complaint that the Town of Devon's bulk water rates were discriminatory.	Enforcement staff determined that there was sufficient information to recommend that a proceeding be initiated to consider the complaint. In Decision 24435-D01-2019, the Commission found that the Town of Devon's water rates were in fact discriminatory and ordered it to recalculate the rates based on a lower commodity charge.
June 27, 2019 Water rate appeal	Complaint that the water rates charged by the Village of Delia were discriminatory.	Enforcement staff determined that there was sufficient information to recommend that a proceeding be initiated to consider the complaint. In Decision 24678-D01-2019, the Commission found that grandfathering in this instance was discriminatory, and ordered that the Village of Delia repay the complainants any amounts they had paid pursuant to the discriminatory rate.
September 30, 2019 Fees for new service	Complaint related to a request for new electrical service from customers of FortisAlberta Inc.	Enforcement staff reviewed FortisAlberta's compliance with provisions of its terms and conditions of service, including those concerning (1) the type and character of the service connection and any special conditions, and (2) easement and vegetation management matters. In enforcement staff's view, FortisAlberta's

		determination that an underground installation would be required was consistent with its terms and conditions of service.
October 16, 2019 Water rate appeal	Complaint that the water rates charged by the Village of Wabamun were discriminatory.	Enforcement staff determined that there was sufficient information to recommend that a proceeding be initiated to consider the complaint. In Decision 24994-D01-2020, the Commission found that the rates charged to the customer were not discriminatory.
November 6, 2019 Idle service charges	Complaint received from a commercial customer regarding idle service charges and distribution customer exit charges levied by FortisAlberta.	Enforcement staff reviewed FortisAlberta's compliance with its applicable terms and conditions of service, including those concerning idle service charges and distribution customer exit charges. In enforcement staff's view, FortisAlberta's application of those charges was consistent with its terms and conditions of service.
November 14, 2019 Property damage	Complaint from a customer alleging that damage had occurred to a stove as a result of a power surge on the electric distribution system operated by ATCO Electric Ltd. near the town of Slave Lake.	Enforcement staff reviewed ATCO Electric's compliance with its applicable terms and conditions of service, including those concerning its liability related to damage to a customer's property resulting from the negligent acts or omissions. Information provided by ATCO Electric demonstrated that the high winds and downed trees were the probable cause of the electrical service issues. In enforcement staff's view, a contravention of ATCO Electric's terms and conditions of service could not be proven in this case.
November 22, 2019 Gas charges	Complainant alleged that DERS had set up an unauthorized account in a customer's name and continued to bill him after he had requested that his gas service be terminated.	Enforcement staff reviewed DERS' compliance with its applicable terms and conditions of service, and relevant sections of the <i>Default Gas Supply Regulation</i> . Information provided by DERS demonstrated that it had correctly processed the customer's request for disconnection, however the disconnection was not completed by the gas distributor. This caused the gas service to default back to the customer, as the property owner, and resulted in additional bills being issued to the customer after his disconnection request. These additional bills were

		unpaid and DERS referred the customer to a credit agency. DERS later withdrew that referral and reversed the charges to resolve the matter.
December 20, 2019 Disconnection	Complainant stated that DERS had disconnected a service without proper notice, incorrectly charged a reconnection fee and wrongly referred an unpaid balance to an external collection agency while the matter was disputed before the Commission.	Enforcement staff concluded that (1) DERS had provided a notice that the account was in arrears and that a disconnection was pending, (2) that the customer was disconnected while in arrears and (3) that the customer was charged reconnection fees consistent with the rate schedules of DERS and ATCO Electric Ltd.

4 Specified penalties

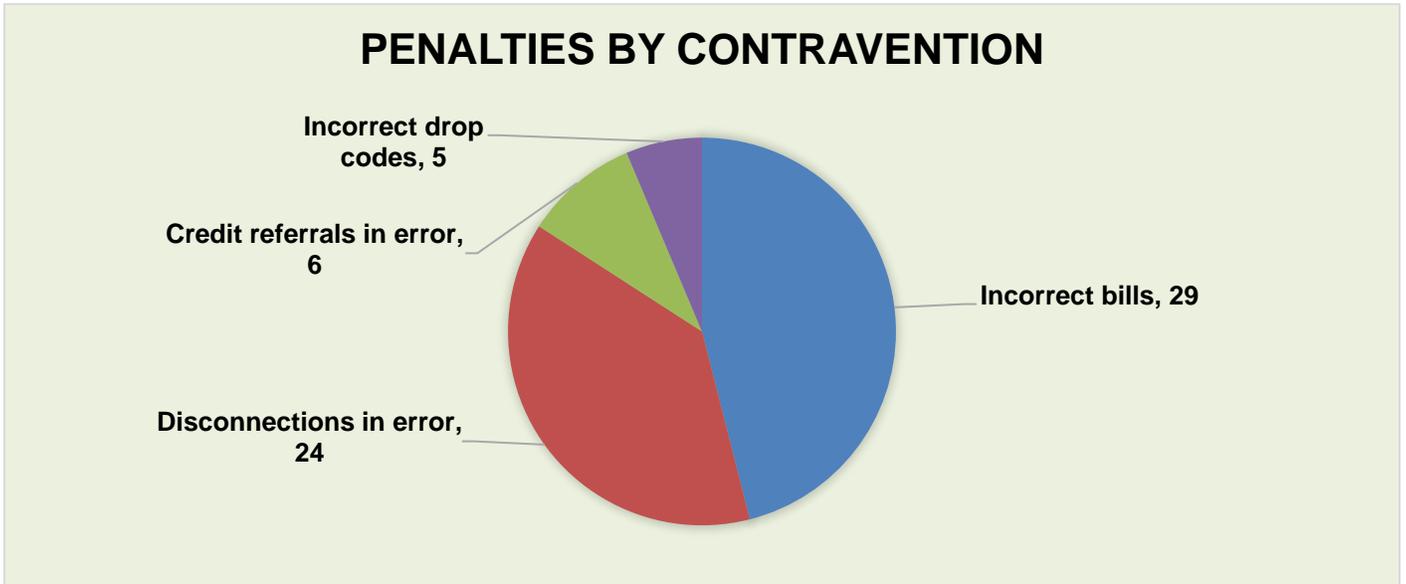
Between the issuance of the first notice of specified penalty on June 13, 2019, and the end of 2019, enforcement staff analyzed 137 events and the Commission issued 64 notices of specified penalty, and issued letters advising of no penalty for 73 events.



Rule 032 identifies contraventions of AUC rules to which a specified penalty may be assessed. There are 17 provisions under AUC rules 003, 021 and 028 that are subject to specified penalties. All 64 penalties issued in 2019 fell under the following contraventions:

- a) Incorrect, unexpected, or late bills under Rule 003, subsection 3.4.1(2).
- b) Disconnections in error under Rule 003, subsection 3.4.1(3).
- c) Referrals to a collection agency in error under Rule 003, subsection 3.4.1(4).

- d) Use of incorrect de-select request codes for electricity under Rule 021, subsection 2.5(2), and for gas under Rule 028, subsection 2.5(2).



4.1 Notices of specified penalty by entity and contravention

The total amount for penalties issued was \$49,425.

Table 2. Notices of specified penalty

Penalties by entity Total to date	AUC Rule 003, Section 3.4.1(2) Billing errors	AUC Rule 003, Section 3.4.1(3) Disconnections	AUC Rule 003, Section 3.4.1(4) Credit referrals	AUC Rule 021 and 028, Section 2.5(2) Incorrect drop code	Total number of penalties	Total dollar value of penalties
AltaGas Utilities Inc.		3			3	\$1,025
Direct Energy Marketing Limited	10	12	2		24	\$25,275
Direct Energy Partnership			1		1	\$175
ENMAX Energy Corporation		6			6	\$3,050
EPCOR Energy Alberta GP Inc.	9	3	3		15	\$8,400
1772387 Alberta Limited Partnership (Encor)	10			1	11	\$9,500
Just Energy				1	1	\$500
Sponsor Energy				2	1	\$1,000
Energy for Less				1	1	\$500
Total	29	24	6	5	64	\$49,425

Thirty of the 64 penalties issued directed payments to customers; 21 of those were for \$150. In total, of the \$49,425 penalties amount, \$4,950 (roughly 10 per cent) was directed to customers adversely affected by proven contraventions. Customers do not pay for the cost of penalties through their utility charges.

5 Enforcement of specified penalty proceedings

Any party who is issued a specified penalty may file a dispute of that specified penalty under subsection 63.1 of the *Alberta Utilities Act*. In 2019, two specified penalty dispute proceedings were initiated.

In these cases, enforcement staff serve as the applicant in the proceeding and request an order from the AUC to confirm the specified penalty in dispute. Enforcement staff have the onus of demonstrating on a balance of probabilities that a contravention has occurred. Enforcement staff and Commission staff adhere to the Commission protocols regarding the segregation of enforcement staff and adjudicative personnel outlined in [Bulletin 2014-05: Alberta Utilities Commission enforcement policy](#)¹ and [Bulletin 2016-10: Practices regarding enforcement proceedings and amendments to AUC Rule 001: Rules of Practice](#).²

Table 3. Enforcement proceedings

Proceeding number	Subject	Entity	Date commenced	Date closed	Result
24752	Penalty dispute	DERS	2019-09-26	2020-01-08	Decision 24752-D01-2020 upheld the penalties
25088	Penalty dispute	DERS	2019-11-18	2020-01-20	Dispute was withdrawn by DERS

6 Future reports

To facilitate a proactive engagement of stakeholders and enable a better understanding of the AUC's compliance and enforcement activities, the Commission will continue to issue similar reports summarizing enforcement activities twice per year.

¹ Bulletin 2014-05 states that AUC enforcement staff and legal counsel, "will have no contact with staff assigned to assist the adjudication panel or the adjudication panel members other than through correspondence copied to all interested parties or through the public proceeding process."

² Bulletin 2016-10 states that "[t]he assigned enforcement staff will have no contact regarding the investigation and the proceeding with the Commission division considering the proceeding or the staff assisting the division except through the public record."