

Bulletin 2019-18

October 18, 2019

Regulatory burden reduction AUC roundtable report and next steps

Since its inception, the AUC has set a course of achieving an efficiency agenda. With his appointment as chair in 2018, Mark Kolesar has renewed and expanded that agenda. The efficiency agenda has multiple objectives including operational performance (performance metrics), regulatory outcomes through performance and incentive mechanisms (performance-based regulation) and improved decision-making processes.

The AUC's efficiency agenda has four initiatives:

- Project Green Light.
- Roundtable on Regulatory Burden Reduction.
- Industry Impact Assessment Report; a part of the AUC strategic plan that will inform our annual report card and the Alberta government red tape policy work.
- Regulatory Burden Task Force.

On October 4, 2019, the AUC held a roundtable with approximately 50 stakeholders to discuss regulatory burden and how future regulatory approaches might reduce, or eliminate regulatory requirements. The list of attendees, shown in Appendix A, included representatives from utility companies, consumer organizations, industry groups, generators, government and other stakeholders. In addition, a number of excellent written submissions were filed in advance of the session.

The roundtable began with opening remarks from Mark Kolesar, followed by three moderated panels of speakers discussing the following topics:

- Defining regulatory burden – a discussion of regulatory burden and its impact.
- Solutions – identifying possible ways of reducing regulatory burden.
- Next steps – prioritizing solutions and mapping the way forward.

The main views that emerged from those discussions are captured below. They have been grouped into areas where there was general agreement and areas the AUC intends to explore further.

Areas of general agreement

- Importance of communication and clear guidance, and consistent decision-making.
- Significant culture change required by all, including a less risk averse approach.
- Renewable companies told the AUC that there is inefficient overlap between the AUC and Alberta Environment and Parks on facilities applications, and noted that the current approval process lacks the flexibility to accommodate the fast pace of technological change.
- Utilities told the AUC that while they respect the need for independent, transparent, prospective and fair decision-making processes, the current application and hearing procedures must be made more timely and focused. Concern was expressed about undue scope creep and expansion of the discovery process. In short, the Commission's decision-making process needs improvement in order for utilities to proceed with projects and investments with greater certainty and reduced risk. A number of specific recommendations on how Commission processes may be improved were proposed. This bulletin discusses those recommendations and whether and how they might be implemented.
- There is a need for continued trust and confidence that changes will not reduce customer service, fairness, reasonableness of rates or standards expected of essential services.
- The industry is facing unprecedented challenges in terms of the number and required pace of changes. Any reform initiatives will require changes to established, complex systems and processes with shrinking resources. Given these challenges, there is little choice except to implement strategic changes to enable flexibility and innovation.
- Timing – there was a general consensus that the process of introducing reforms should not take too long. Specific concerns were raised that if the process is too slow or the outcomes are not meaningful, legislative changes would be requested.
- AUC processes should be fit for purpose; no one size fits all solutions.

Areas to explore further

- There were a number of areas where stakeholders had differing views and areas that attracted relatively little discussion. In particular, the AUC is interested in better defining regulatory burden, how regulatory burden might be measured, and whether other regulatory approaches, including a permissive, proportionate approach, might improve our effectiveness in making processes more efficient in some areas.

What we heard and intend to address to reduce or remove regulatory burden

As noted above, stakeholders raised a number of specific suggestions for changes to the Commission's application and hearing processes. The recommended changes are within the categories of:

- adjudicative hearings
- role of parties
- pre-hearing processes

Adjudicative hearings:

- Limit information requests to circumstances where fact-finding is required by applying existing Rule 001: *Rules of Practice*.
- More reliance on written proceedings.
- More reliance on oral argument.
- Scope constrained to early, clear and detailed issues development.
- Fixed decision dates with related incentives for parties' failure to comply with necessary steps to meet hearing date.
- Increased use of incentives to drive behavior in adjudicative proceedings through imposition of cost consequences in the cost recovery process.

Role of parties:

- Clear demonstration of interest and how decisions impact the rights of constituencies, as a measure of standing.
- Greater engagement by Commission panels in challenging and supervising questions and submissions of parties.

Pre-hearing processes:

- More use of technical conferences and less use of written interrogatories.
- Potential for Commission members attending technical conferences and ruling on relevance of questions, responsiveness of answers and need for undertakings.
- Greater use of negotiated settlements and guidance as to which issues should be settled and which should go to a hearing.
- Participation of Commission members in settlement discussions.

Next steps

While the review identified themes and areas for further work, the AUC knows there are improvements that it can make a start on now to reduce regulatory burden.

The AUC agrees that its processes and procedures can be improved and the Commission, along with all parties, plays a significant role in making these improvements. The AUC is introducing the following changes immediately, where appropriate.

The AUC will make greater use of technical or pre-hearing meetings with the applicant and interveners to:

- Define the scope and issues arising from the application.
- Clarify content in an application with a view to reducing information requests.
- Determine the relevance and adequacy of information requests and responses.
- Schedule process steps with fixed dates, and especially fixed hearing dates.
- Deal with all interlocutory matters in an expedited fashion.

The Commission will attend these sessions and make a ruling on these matters shortly after the meeting. Failing to comply with the Commission's ruling may result in consequences, i.e. cost disallowance.

The AUC will initially implement these measures in the following proceedings.

Rates

- ATCO Electric Transmission 2020-2022 General Tariff application
- ENMAX Power Corporation 2019 Distribution Tariff, Phase II application
- ATCO Electric 2019 Distribution Tariff, Phase II application

Facilities

Upcoming needs identification documents and transmission facility applications:

- Chapel Rock to Pincher Creek Transmission Development
- Alberta – British Columbia Intertie Restoration
- Central East Transfer out

The AUC's Facilities Division will coordinate a roundtable meeting with representatives from Alberta Environment and Parks and renewable developers to identify and address overlap between the two agencies and discuss options for making the application process more flexible to address rapid technological change.

The AUC will continue to examine the areas identified for future work and look forward to continuing its discussions with stakeholders. In the meantime, the AUC intends to implement the changes identified above to its application and hearing processes without further consultation. Where required, relevant rules or bulletins will be amended to reflect these practice changes.

It is vitally important that everyone who participates in the regulatory sector accept responsibility to adapt to the changes being implemented. Not all will be easy to implement. For example, a Commission letter directing a party to appear in four days to argue the relevance or adequacy of information requests is very different from the current written process; however, without this kind of dramatic process change, we risk making little if any progress on reducing regulatory burden.

Robert D. Heggie
Chief Executive

Appendix A

First Name	Last Name	Title	Company
Pauline	McLean	Director, Legal & Regulatory Affairs & Associate General Counsel	AESO
Tom	Sloan	Legal Manager, ISO Tariff & Transmission System Projects	AESO
Larry	Kram	Vice President, Law, General Counsel and Corporate Secretary	AESO
Al	Nagel	Chief Executive Officer	Alberta Federation of REAs
Doug	Larder, QC	General Counsel	Alberta Utilities Commission
Bob	Heggie	Chief Executive	Alberta Utilities Commission
Mark	Kolesar	Chair	Alberta Utilities Commission
Holly	Lee	Executive Assistant	Alberta Utilities Commission
JP	Mousseau	Executive Director, Facilities	Alberta Utilities Commission
Henry	van Egteren	Commission Member	Alberta Utilities Commission
Tracee	Collins	Commission Member	Alberta Utilities Commission
Mike	Stock	VP, Financial Services & Regulatory Affairs	AltaGas
Kristen	Lozynsky	Senior Regulatory Counsel	AltaGas
Zora	Lazic	Senior Vice President, Law & Regulatory, General Counsel	AltaLink
Ed	Rihn		AltaLink
Corinne	Severson	Director, Regulatory	ATCO Utilities
Brian	Shkrobot	Senior Vice President, Finance & Regulatory	ATCO Utilities
Dennis	DeChamplain	Executive Vice President & Chief Financial Officer	ATCO Utilities
Chris	Best	Consultant	Best Consulting Solutions
Randall	Block, QC	Partner	Borden Ladner Gervais
Evan	Wilson	Regional Director, Prairies	CanWEA
Jason	Comandante	VP, Regulatory & Environmental Policy	Capital Power
Colin	Robb	Senior Advisor, Regulatory & Environmental Policy	Capital Power
Nicole	Black	Senior Manager, Government & Regulatory Affairs	Direct Energy
Gary	Newcombe	VP Government & Regulatory Affairs, Canada	Direct Energy
Stephanie	Clarke	Assistant Deputy Minister	Energy, Resource Development Policy

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First Name	Last Name	Title	Company
Nicole	Spears	Executive Director	Energy, Retail, Distribution and Coal Branch
Andrew	Barrett	Vice President, Regulatory Applications	ENMAX
Jana	Mosley	Vice President, Power Delivery	ENMAX
Dale	McMaster	Executive Vice President, Transmission & Distribution Services	ENMAX
Saqib	Chaudhary	Director, Regulatory Affairs and Business Planning	EPCOR Distribution & Transmission
Iftikhar	Abbasi	Senior Manager, Regulatory Affairs	EPCOR Energy Alberta
Brian	Hennings	General Counsel	EQUUS
Charlene	Glazer	Regulatory & Compliance Leader	EQUUS
Bori	Arrobo	Senior Manager, Environmental and Regulatory Affairs	Fort McKay First Nation
Michael	Mosher	President & CEO	FortisAlberta
Deb	Crossman	Director, Customer Operations	FortisAlberta
Dan	Tocher	Vice President, Stakeholder Relations	Greengate Power
Shanelle	Sinclair	Manager, Regulatory & Policy, Power Generation	Heartland
Matt	Davis	Director, Strategic Planning and Policy	Heartland
Vittoria	Bellissimo	Executive Director	IPCAA
Erika	Goddard	Power Development	Lionstooth Energy Inc.
Geoff	Lester	President & CEO	Lionstooth Energy Inc.
Gordon	Kaiser	Chief Executive Officer	Market Surveillance Administrator
Christine	Runge	Senior Consultant	Power Advisory
Marnie	Dawson	Principal, Renewable Energy Group	Prairie Sky Consulting
Randy	McCreary	Partner	Reynolds, Mirth Richards & Farmer
Daniel	Visser	Manager, Development & Engineering, Renewable Energy	Suncor
Joanne	Lipinski	Specialist, Electrical Approvals	Suncor

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First Name	Last Name	Title	Company
Georgina	Newell	Manager, Operations Compliance	TransAlta
Akira	Yamamoto	Senior Regulatory Advisor	TransAlta
Luis	Pando-Lopez	Market Analyst	Utilities Consumer Advocate
Chris	Hunt	Executive Director & Advocate	Utilities Consumer Advocate
Sandra	McDonough	Manager, Regulatory Operations	Utilities Consumer Advocate
Jim	Wachowich, QC	Counsel	Wachowich & Co