



AUC

Alberta Utilities Commission

Enforcement Report January to June 2020

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1 Summary

The Alberta Utilities Commission issues a report on compliance and enforcement activities twice per year. This report summarizes the Commission's compliance and enforcement results between January and June of 2020.

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

The Commission limited its consideration of specified penalties due to the COVID-19 pandemic

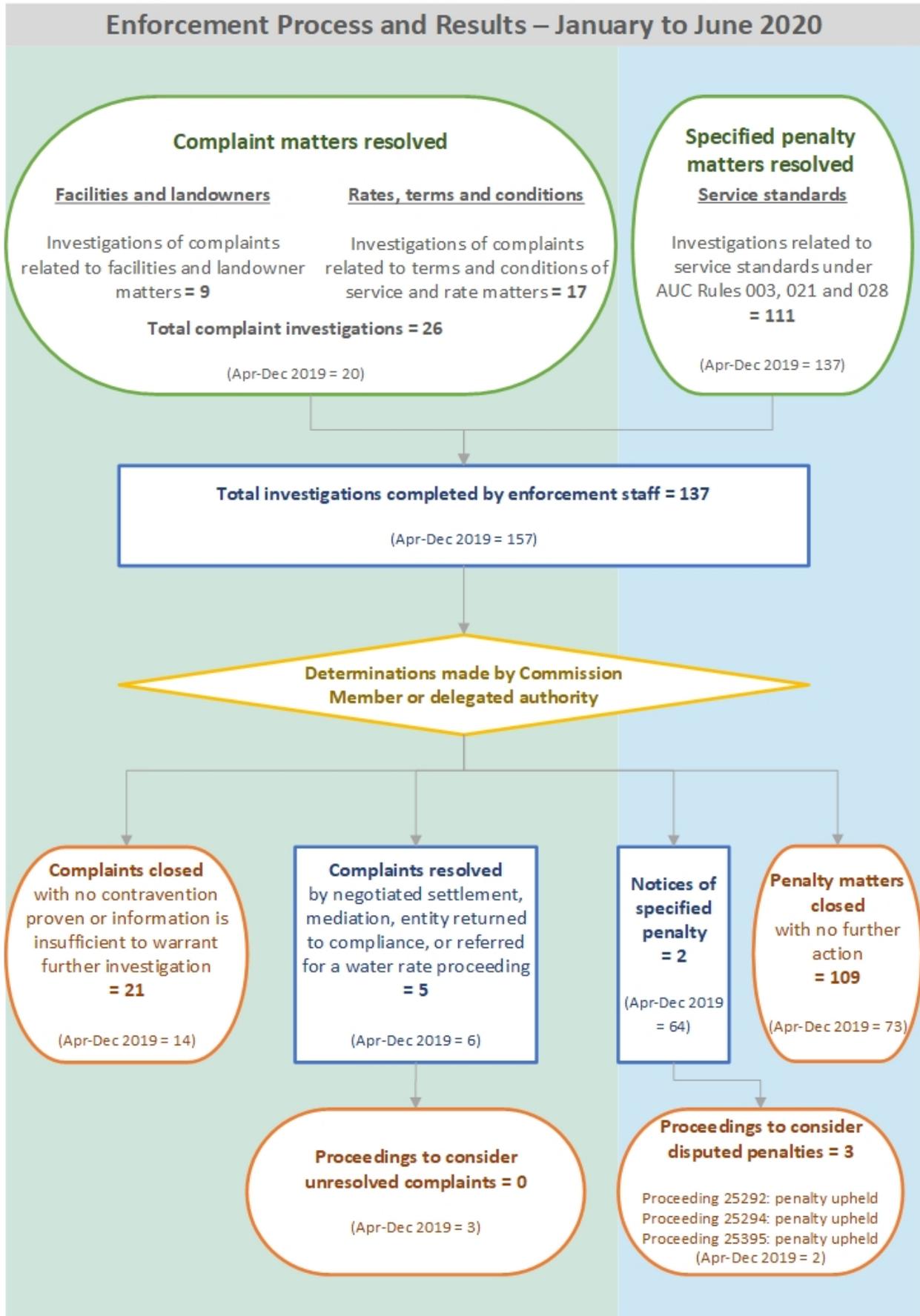
In response to the COVID-19 pandemic and utility payment deferral program, the Commission issued a series of bulletins in which it announced that it would limit its consideration of specified penalties to contraventions that were not self-reported or that resulted in a disconnection greater than 24 hours.

The Commission stated in Bulletin 2020-10: *Suspension of specified penalties program for self-reported contraventions* that it recognized that Alberta's electric and natural gas utilities, service providers and retailers were working hard to put in place measures to respond to the utility payment deferral program. In response, the Commission exercised its regulatory discretion to ensure that these organizations could focus their resources on helping customers during the pandemic and payment deferral period.

In January of 2020, the Commission issued two notices of specified penalty, and then delayed issuing further penalties for the duration of this reporting period. In total, enforcement staff analyzed 111 penalty matters and the Commission issued letters advising of no penalty for 109 of those matters.

The Commission increased the number of complaint matters resolved

Enforcement staff resolved 26 complaint matters in the six months from January to June of 2020. In comparison, in the nine months from April to December of 2019, enforcement staff resolved 20 complaint matters. The limited consideration of specified penalty matters during the first half of 2020 contributed to greater resources being applied to complaint matters which are often more complex in nature.



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 complaints through enforcement@auc.ab.ca.
- e) Market participants as self-reports.

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 [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 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

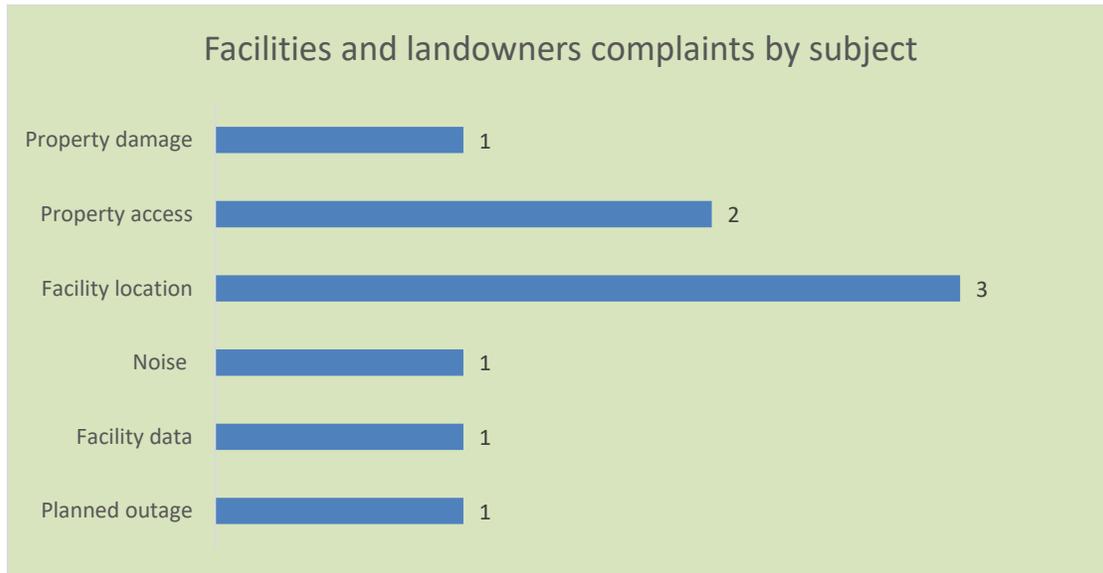
The AUC regulates certain electric and gas utility service providers to ensure that customers receive safe and reliable service at just and reasonable rates. The AUC also has oversight regarding the conduct of competitive retailers through the administration of retail market rules. It also ensures that 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:

- Facility and landowner matters = 9 (35 per cent)
- Terms and conditions of service and rate matters = 17 (65 per cent)

Complaint matters resolved Jan - Jun 2020	Facilities and landowners	Rates, terms and conditions	Total
AltaLink	1		1
Ambit Energy		1	1
ATCO Electric	3	3	6
ATCO Gas	2	1	3
AltaGas		2	2
Capital Power	1		1
City of Red Deer		1	1
Direct Energy		1	1
Enercare		1	1
ENMAX Energy		1	1
ENMAX Power	2		2
EPCOR		3	3
FortisAlberta		3	3
Total matters resolved	9	17	26

3.1 Complaint investigations by subject - facilities and landowners

Between January and June of 2020, enforcement staff completed nine investigations of complaints related to facilities and landowner matters. This is an increase from eight investigations concluded in 2019.



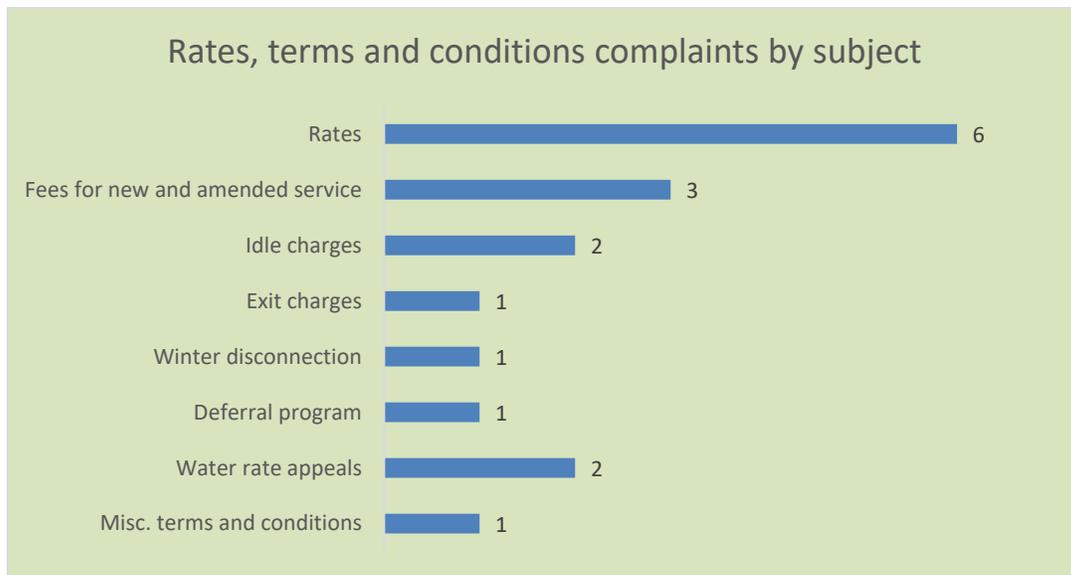
Letters were issued at the conclusion of three of these investigations and notices were posted to the Commission's website. Those matters are summarized below.

Date and subject	Complaint	Result
February 27, 2020 Property damage	A landowner complained that ATCO Electric Inc. had caused rutting while clearing brush from a distribution right-of-way.	Alberta Environment and Parks (AEP) had conducted site inspections on three occasions and acknowledged that ruts from a machine were present through a watercourse. However, AEP had recommended that the ruts be left to naturally back fill. The Commission accepted this recommendation.
April 2, 2020 Facility location	A landowner complained that ENMAX Power Corporation had not fulfilled a commitment to convert two poles on a 69-kilovolt transmission line to an underground line.	A specific time period that the steel poles would remain in place was not contemplated in Decision DA2014. ENMAX stated that it would submit an application in 2021 to return a portion of the line back underground.
June 9, 2020 Facility location	A residential gas line was found to be in the wrong location, and the landowner asserted that it should not be moved.	The landowner's property was subdivided in 1999 and resulted in landowner's gas line to be located outside of their property. ATCO Gas took active measures to remedy the matter and stated that it would do so without cost to the landowner.

3.2 Complaint investigations by subject - rates, terms and conditions

Between January and June of 2020, enforcement staff completed 17 investigations related to matters concerning rates, and terms and conditions of service. This is an increase from 12 investigations concluded in 2019.

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 subject	Complaint	Result
January 14, 2020 Rates	A customer complained that an incorrect amount was charged by EPCOR Energy Alberta GP Inc. to resolve a cross metering issue.	Enforcement staff concluded that the charges applied by EPCOR were correct.
February 27, 2020 Rates	A customer complained that incorrect charges were applied for residential and commercial service by ATCO Electric Ltd.	ATCO Electric resolved the matter directly with the customer and provided a credit for the overcharged amount.
April 20, 2020 Rates	A customer complained that incorrect submetering charges were applied by Enercare Connections Inc.	Enercare confirmed that the billing issue had been remedied and that the customer's account had a zero balance.

April 30, 2020 Idle charges	A customer complained that idle charges subject of Decision 22796-D01-2018 were calculated incorrectly.	Enforcement staff concluded that idle charges applied by FortisAlberta Inc. did not contravene Decision 22796-D01-2018, nor FortisAlberta's terms and conditions of service.
May 28, 2020 Water rates	A water customer complained that manual meter reading fees charged by the City of Red Deer were discriminatory.	The City of Red Deer agreed to withdraw a "no access" fee charged to the customer. The investigation did not support a conclusion that the remaining manual meter reading fees were discriminatory.
June 1, 2020 Miscellaneous terms and conditions	A customer complained that ENMAX should provide bills by email.	Enforcement staff concluded that email notices that direct customers to access bills through ENMAX's website would not substantiate a contravention of its terms and conditions.
June 10, 2020 Winter disconnection	An investigation was conducted regarding a possible disconnection of gas service during winter.	A review of gas usage demonstrated that the site was not disconnected between November 1, 2019, and April 14, 2020.
June 16, 2020 Idle charges	A customer complained that idle charges should not be applied to a vacant site by AltaGas Utilities Inc.	In absence of a request by the customer to disconnect gas service, enforcement staff concluded that the disconnection was temporary and that the information did not support a finding that AltaGas contravened its service rules.

4 Specified penalties

On March 18, 2020, the Alberta government announced a utility payment deferral program to help Albertans avoid additional financial hardship in response to the COVID-19 pandemic. That 90-day program allowed residential, farm and small commercial customers, experiencing financial hardship as a direct result of COVID-19, to defer payment of electricity and natural gas bills, and was intended to ensure that no customer's site was cut off, regardless of the service provider. The payment deferral program came into effect on March 18, 2020, and continued through June 18, 2020. The repayment period for deferred amounts under the *Utility Payment Deferral Program Act* will conclude on June 18, 2021.

On March 27, 2020, the Commission issued Bulletin 2020-10 which stated that the Commission recognized that Alberta's electric and natural gas utilities, service providers and retailers were working hard to put in place measures to respond to the deferral program. That bulletin announced that the Commission would exercise its regulatory discretion around the issuance of notices of specified penalty to ensure that these organizations could focus their resources on helping their customers during this unprecedented public health emergency. Specifically, the Commission limited its consideration of specified penalties to contraventions that are not self-reported, or that resulted in disconnections of a customer's site in error for a period in excess of 24 hours regardless of whether or not the contravention was self-reported.

The limiting of specified penalties to contraventions that were not self-reported or that resulted in a disconnection greater than 24 hours was extended in Bulletin 2020-26,¹ and again until June 28, 2021, in Bulletin 2020-34.²

4.1 Penalty matters resolved by entity and contravention

The Commission issued two notices of specified penalty in January 2020, and then in response to the COVID-19 pandemic and payment deferral program, did not issue any penalties for the remainder of this reporting period. In total, enforcement staff analyzed 111 events and the Commission issued letters advising of no penalty for 109 those events. This resulted in a decrease in the total investigations into penalty matters from 137 in 2019, and an increase in events resulting in no-penalty letters from 73 in 2019.

Penalty matters resolved	Rule 003, Section 3.4.1(2) Billing errors	Rule 003, Section 3.4.1(3) Disconnections	Rule 003, Section 3.4.1(4) Credit referrals	Rule 021 and 028, Section 2.5(2) Incorrect drop code	Rule 021 and 028, Section 7 Erroneous enrollment	Total	Total penalty amount
Matters where no penalty was issued							
AltaGas Utilities		1	29			30	
Direct Energy Marketing	1	4				5	
Direct Energy Partnership		1				1	
Energy For Less	2					2	
ENMAX	3	2		1	1	7	
Encor	8	1			5	14	
EPCOR	25	17	7		1	50	
Penalties issued							
ENMAX	1			1		2	\$675
Total	40	26	36	2	7	111	

5 Enforcement of specified penalty proceedings

Any party who is issued a specified penalty may file a dispute of that specified penalty under Section 63.1 of the *Alberta Utilities Act*. Between January and June of 2020, three specified penalty dispute proceedings were initiated. Each of these disputed specified penalties were dismissed that the penalties were upheld.

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

¹ Bulletin 2020-26: AUC extends suspension of specified penalties program for self-reported contraventions to September 30, 2020

² Bulletin 2020-34: AUC extends suspension of specified penalties program for certain self-reported contraventions to June 18, 2021

enforcement staff and adjudicative personnel outlined in [Bulletin 2014-05: Alberta Utilities Commission enforcement policy](#)³ and [Bulletin 2016-10: Practices regarding enforcement proceedings and amendments to AUC Rule 001: Rules of Practice](#).⁴

Proceeding number	Subject	Entity	Date commenced	Date closed	Result
25292	Penalty dispute	Sponsor Energy	2019-01-22	2020-06-11	Decision 25292-D01-2020 upheld the penalty
25294	Penalty dispute	Energy For Less	2019-01-22	2020-06-11	Decision 25294-D01-2020 upheld the penalty
25395	Penalty dispute	ENMAX	2020-02-24	2020-08-06	Decision 25395-D01-2020 upheld the penalty

³ 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.”

⁴ 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.”