

Rule 014

Rules Respecting the Public Disclosure of Market Surveillance Administrator Records in a Hearing or Other Proceeding

This rule was approved by the Alberta Utilities Commission on January 2, 2008.

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1 Definitions

In these rules,

- (a) “Act” means the *Alberta Utilities Commission Act*,
- (b) “Commission” means the Alberta Utilities Commission,
- (c) “confidential information” means information that is not available to the public, is proprietary or commercially sensitive, and was provided to the Market Surveillance Administrator on a confidential basis.

2 Public record

Subject to Section 3, where the Market Surveillance Administrator gives a notice to the Commission requesting a hearing or other proceeding, records obtained by the Market Surveillance Administrator in the course of the investigation upon which it intends to submit in evidence shall be placed on the public record.

3 Notice

If a person receives a notice from the Market Surveillance Administrator issued under sections 51 or 52 of the Act requesting a hearing or other proceeding and the person has provided confidential information to the Market Surveillance Administrator which the person wants to remain confidential, the person shall, within 5 business days following receipt of the notice, file with the Commission a request for confidentiality, in accordance with the *Rules of Practice* of the Commission and serve a copy of the request on the Market Surveillance Administrator and on any other persons named in the notice.

4 Request for confidentiality

The request for confidentiality must

- (a) be in writing;
- (b) briefly describe
 - (i) the information which is the subject of the request,
 - (ii) the nature of the information,
 - (iii) the reasons for the request, including the specific harm that would result if the information were placed on the public record; and
- (c) indicate whether all or only a part of the information is the subject of the request.

5 Granting of request

The Commission may, with or without a hearing, grant a request for confidentiality on any terms it considers appropriate

- (a) if the Commission is of the opinion that disclosure of the information could reasonably be expected
 - (i) to result in undue financial loss or gain to the person, or
 - (ii) to harm significantly that person's competitive position, or
- (b) if the information
 - (i) is personal, financial, commercial, scientific or technical in nature,
 - (ii) has been consistently treated as confidential by the person, and
 - (iii) the Commission considers that the person's interest in confidentiality outweighs the public interest in the disclosure of the record as a part of the public record of the hearing or other proceeding.

6 Undertaking

- (1) If the Commission grants a request for confidentiality, another person may only receive a copy of the document if the party files an undertaking stating that the person will hold the record in confidence and use it only for the purpose of the hearing or other proceeding.
- (2) If directed by the Commission, a recipient of confidential information pursuant to these rules will:
 - a. expunge all electronic copies of the confidential information from all electronic apparatus and data storage media under the recipient's direction or control; and
 - b. deliver to the Commission or destroy all paper copies of the confidential information in the recipient's possession or under the recipient's.

7 Negotiated settlements

These rules apply to the filing of negotiated settlement agreement with the Commission under Section 44(2) of the Act and any hearing or other proceeding to approve the settlement.

8 No limitation

Nothing in these rules limits the operation of any statutory provision that protects the confidentiality of a record.