

Rule 018

Rules on Negotiated Settlements

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

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1 Application of rules

These rules apply to negotiated settlement proceedings of the Commission respecting rates and tariffs.

2 Definitions

In these rules,

- (a) “Act” means the *Alberta Utilities Commission Act* and any other enactment under which the Commission is charged with the conduct of a negotiated settlement or other proceedings;
- (b) “AUC staff” means employees of the Commission;
- (c) “applicant” means a person who files an application with the Commission;
- (d) “Commission” means the Alberta Utilities Commission;
- (e) “intervener” means a person, other than an applicant who files a submission with the Commission in respect of a proceeding;
- (f) “non-participant” means an intervener to an application who does not participate in a negotiated settlement proceeding;
- (g) “proceeding” means a matter brought before the Commission by application or by the Commission on its own initiative;
- (h) “*Rules of Practice*” means the Commission *Rules of Practice*.

3 Notice

- (1) The Commission requires a statement in the settlement agreement confirming that proper notice was provided by the applicant to all interested parties.
- (2) The notice provisions in the *Rules of Practice* apply the giving of notice under these rules.

4 Initiation of process

- (1) An applicant may only commence negotiations with the approval of the Commission.
- (2) An applicant must notify the Commission of its intention to initiate a negotiated settlement process and provide the Commission with an outline of the pertinent issues to be resolved.
- (3) In issuing its approval to negotiate, the Commission may provide directions to the parties regarding information to be filed with the Commission.

5 Role of AUC staff

- (1) Subject to subsection (2), AUC staff involved in the negotiated settlement process must not participate in proceedings by the Commission arising from or relating to any issue in the negotiated settlement proceeding, without the express written consent of all parties to the negotiations.
- (2) AUC staff may advise the Commission as to the fairness of the process without obtaining the consent of the parties.

6 Filing of the application and settlement agreement

- (1) Subject to Section 3, when an agreement is reached on all or some of the issues, the text of the agreement, including a representation that no party has withheld relevant information, must be circulated to all parties to the agreement.
- (2) Upon the concurrence of the parties on the text of the agreement, an application for approval must be filed with the Commission.
- (3) At a minimum, the application must include the following:
 - (a) evidence of adequate notice;
 - (b) the settlement agreement,
 - (c) details of issues not resolved;
 - (d) outline of issues where acceptance is not unanimous, including the names of those who disagree;
 - (e) the rates that result or will result from the settlement, supported by schedules, to assist the Commission in understanding how the rates were derived;
 - (f) the text of any changes to the terms and conditions of service with supporting information;
 - (g) a description of any outstanding issues; and
 - (h) unless the Commission directs otherwise, a settlement brief explaining the basis of the settlement and how it meets the interests of the parties and the public interest.
- (4) The Commission may seek additional information it considers necessary.
- (5) The onus is on the applicant to ensure that there is sufficient evidence to support the application, and that the quality and detail of the evidence and the rationale for the settlement of issues are sufficient to enable the Commission to understand and assess the agreement.

7 Evaluation and acceptance of a settlement agreement

- (1) The Commission must give notice of the application.
- (2) The Commission, in its consideration of a settlement agreement, must consider dissenting views which may relate to one issue, portions of the settlement agreement, or its entirety.
- (3) The Commission must determine the process for dealing with the issues identified by non-participants to the settlement negotiations or parties with dissenting views.
- (4) If it determines that a hearing is not required, the Commission shall consider such views in its deliberations.
- (5) If it determines that a hearing is required, either oral or written, the parties will have the opportunity to offer evidence and to question all or any portion of the settlement.

8 Unanimous or unopposed settlement

- (1) Upon presentation of a unanimous settlement or a settlement that is unopposed, the Commission must assess whether the settlement results in rates and terms and conditions that are just and reasonable.
- (2) If a unanimous settlement is determined by the Commission to be patently against the public interest or contrary to law, the Commission must intervene.

9 Costs

- (1) Costs incurred in the negotiated settlement process are generally the responsibility of the applicant utility, to be recovered through customer rates.
- (2) All costs must be approved by the Commission, pursuant to the Commission *Rules on Intervener Costs*, whether the parties reach agreement on costs or not.
- (3) Parties to the negotiated settlement must provide sufficient detail for the Commission to assess the reasonableness of costs.
- (4) The Commission will not recognize costs as a substantive term or condition of the negotiated settlement.