Robert Tupper
Decision on Preliminary Question
Application for Review of Decision 24295-D01-2019
Salt Box Coulee Water Supply Company Ltd.
Ultraviolet Light System Upgrade Rate Rider

June 3, 2020

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Published by the:
Alberta Utilities Commission
Eau Claire Tower
1400, 600 Third Avenue S.W.
Calgary, Alberta T2P 0G5

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1 Decision summary

1. In this decision, the Alberta Utilities Commission determines whether to review and vary its calculation of the rate rider to recover the costs of the ultraviolet light system upgrade approved in Decision 24295-D01-2019.[1] Decision 24295-D01-2019 addressed Salt Box Coulee Water Supply Company Ltd.'s request for a rate rider to recover the costs associated with its ultraviolet system upgrade, which was filed as part of Salt Box's 2019 final rate application. Mr. Robert Tupper filed an application to review Decision 24295-D01-2019, claiming that the Commission erred in calculating the ultraviolet system rate rider by basing it on the incorrect number of lots in Calling Horse Estates. Water distribution service and direct water service is provided to Mr. Tupper's lot by Calling Horse Estates Co-operative Limited, a water cooperative that services Calling Horse Estates but is not regulated by the Commission. Mr. Tupper claimed that six members of the cooperative do not receive their water from the cooperative and one of these lots has been off the system for 40 years. He therefore claimed that the number of lots on which the Commission based its calculation for the rider in Decision 24295-D01-2019 was incorrect.

2. Mr. Tupper requested that the Commission provide him with further clarification of the rate rider decision, to the extent that it relates to his request for review and whether there is a regulation that addresses the disconnection of sites in his area. In paragraph 39 of this decision, the Commission has responded to this request, stating that there is no regulation addressing this issue and that the disconnection of sites in Calling Horse Estates is not subject to the Commission's jurisdiction. Disconnections in Calling Horse Estates are addressed through Calling Horse Estates Co-Operative Limited, an Alberta water cooperative governed by the provisions of the *Rural Utilities Act*.

3. The review panel has decided to deny the review application for the reasons provided below.

2 Introduction and background

4. Salt Box Coulee Water Supply Company Ltd. is an investor-owned water utility that provides water transmission service to Calling Horse Estates Co-Operative Limited (Calling Horse or CHECAL). Salt Box Coulee Water Supply Company Ltd. (Salt Box) provides a single

[1] Decision 24295-D01-2019: Salt Box Coulee Water Supply Company Ltd. Ultraviolet Light System Upgrade Rate Rider, Proceeding 24295, December 16, 2019.

monthly bill to Calling Horse for water transmission service and Calling Horse, in turn, bills each of its members for water service.

5. On December 16, 2019, the Commission issued Decision 24295-D01-2019 (the rate rider decision) finding that all Salt Box customers would benefit from a proposal by Salt Box to construct and install an ultraviolet light (UV) system upgrade and should share equally in the costs. The Commission approved the UV system rate rider amounts to be recovered from Salt Box's customers. In calculating the rate rider amount for the UV system upgrade, the Commission considered Salt Box's monthly mortgage payment associated with the construction, commissioning and financing of the UV system upgrade. The Commission ordered that the rate rider amount for Calling Horse, one of Salt Box's customers, was to be set at $870.00/month based on 15 lots in Calling Horse Estates.

6. On January 15, 2020, the Commission received an application from Mr. Tupper requesting a review and variance of the rate rider decision. The review application was filed pursuant to Section 10 of the *Alberta Utilities Commission Act* and Rule 016: *Review of Commission Decisions*. The Commission designated the review application as Proceeding 25276.

7. On January 16, 2020, the Commission issued a filing announcement for the review application. In a January 30, 2020 letter, the Commission advised parties that pursuant to Rule 016, consideration of the review application would follow the two-step process provided for in the rule. This process is further described in Section 3 of this decision. In the same letter, the Commission invited parties to register to participate in the proceeding by February 10, 2020.

8. Registrations were received from Sylvia Blick and Travis Gieck, Robert Lupton, Jeff Magus, and Kevin and Shelley Moore, each of whom supported the application for review. Salt Box filed a statement of intention to participate (SIP) and supporting documentation opposing the application, stating that it was not told about any other Calling Horse customers leaving the system.

9. By letter dated March 9, 2020, the Commission advised parties that it had sufficient information to proceed in issuing its decision in the review application.

10. In this decision, the Commission member who authored the rate rider decision will be referred to as the "hearing panel" and the Commission member who considered the review application will be referred to as the "review panel."

11. In reaching its determinations, the review panel has reviewed the pertinent portions of the rate rider decision and relevant materials comprising the record of this proceeding and of Proceeding 24295. Accordingly, references in this decision to specific parts of the record are intended to assist the reader in understanding the Commission's reasoning relating to a particular matter and should not be taken as an indication that the Commission did not consider all relevant portions of each of the records with respect to the matter.

12. In this decision, the review panel refers to the decisions issued since 2017 that address Salt Box's rates or other charges and provides the history of the Commission-approved water rates in the service area:

- Decision 21908-D01-2017[2] set the interim rates for Salt Box and approved Salt Box's request for a rate rider, finding that, "Once Salt Box has obtained financing, the Commission directs Salt Box to submit the details of the financing arrangements to the Commission. The Commission will then determine the amount and term of the rate rider to be included on customers' bills to support payment of the UV system."[3]

- Decision 23401-D01-2018[4] related to a complaint from certain Salt Box customers about a previously contracted infrastructure repair charge.

- Decision 24295-D01-2019 (the rate rider decision under review) set the amount and term of the rate rider contemplated in Decision 21908-D01-2017.

3 The Commission's review process

13. The Commission's authority to review its own decisions is discretionary and is found in Section 10 of the *Alberta Utilities Commission Act*. That act authorizes the Commission to make rules governing its review process and the Commission established Rule 016 under that authority. Rule 016 sets out the process for considering an application for review. A person who is directly and adversely affected by a decision may file an application for review within 60 days of the issuance of the decision, pursuant to Section 3(3) of Rule 016.

14. Mr. Tupper filed his review application within the required period.

15. The review process has two stages. In the first stage, a review panel must decide whether there are grounds to review the rate rider decision. This is sometimes referred to as the "preliminary question." If the review panel decides that there are grounds to review the decision, it moves to the second stage of the review process where the Commission holds a hearing or other proceeding to decide whether to confirm, vary, or rescind the original decision. In this decision, the review panel has decided the preliminary question.

16. Section 4(d) of Rule 016 requires an applicant to set out in its application the grounds it is relying on which may include the following:

> (i) The Commission made an error of fact, law or jurisdiction;
>
> (ii) Previously unavailable facts material to the decision, which existed prior to the issuance of the decision in the original proceeding but were not previously placed in evidence or identified in the proceeding and could not have been discovered at the time by the review applicant by exercising reasonable diligence;
>
> (iii) Changed circumstances material to the decision, which occurred since its issuance.

[2] Decision 21908-D01-2017: Salt Box Coulee Water Supply Company Ltd. Interim Water Rates, Proceeding 21908, October 27, 2017.
[3] Decision 21908-D01-2017, paragraph 127.
[4] Decision 23401-D01-2018: Salt Box Coulee Water Supply Company Ltd. Customer Complaints – Infrastructure Repair Expense, Proceeding 23401, Application 23401-A001, October 22, 2018.

17. Section 6(3) describes the circumstances in which the Commission may grant a review as follows:

> 6(3) The Commission may grant an application for review of a decision, in whole or in part, where it determines, for an application for review pursuant to subsections 4(d)(i), (ii) or (iii), that the review applicant has demonstrated:
>
> (a) In the case of an application under subsection 4(d)(i), the existence of an error of fact, law or jurisdiction is either apparent on the face of the decision or otherwise exists on a balance of probabilities that could lead the Commission to materially vary or rescind the decision.
>
> (b) In the case of an application under subsections 4(d)(ii) or 4(d)(iii), respectively, the existence of:
>
> (i) Previously unavailable facts material to the decision, which existed prior to the issuance of the decision in the original proceeding but were not previously placed in evidence or identified in the proceeding and could not have been discovered at the time by the review applicant by exercising reasonable diligence; or
>
> (ii) Changed circumstances material to the decision, which occurred since its issuance
>
> that could lead the Commission to materially vary or rescind the decision,
>
> (…)

18. In its review application, Mr. Tupper claimed that the appropriate number for calculating the rate rider should be based on 11 lots for Calling Horse Estates rather than 15 lots as used by the Commission. Further, he filed information in Exhibit 24295-X0071, and another customer filed a similar letter in Exhibit 24295-X0072, which were both intended to support that the correct number of lots for Calling Horse Estates is 11.

19. Mr. Tupper did not identify the grounds for the error under Section 4 of Rule 016. However, in light of the contents of Mr. Tupper's application, the review panel considers that the review is best categorized as relying on sections 4(d)(i) and 6(3)(a) of Rule 016 in that it suggests that the Commission made an error of fact, law or jurisdiction rather than sections 4(d)(ii), 4(d)(iii) and section 6(3)(b), which address previously unavailable facts material to the decision or a change in circumstances.

20. The Supreme Court of Canada in *Housen v Nikolaisen*,[5] as recently reaffirmed in *Canada (Minister of Citizenship and Immigration) v. Vavilov*,[6] determined that the applicable appellate review standard concerning an alleged error of fact, or mixed fact and law is a "palpable and

[5] *Housen v Nikolaisen*, 2002 SCC 33.
[6] *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 paragraph 37.

overriding error." The guidance from *Housen* was incorporated by the Commission in Decision 2012-124,[7] as reflected in the following paragraph:

> 30. … [F]indings of fact or inferences of fact made by the hearing panel are entitled to considerable deference, absent an obvious or palpable error. In the Commission's view, this approach is consistent with that prescribed by the Supreme Court in *Housen v. Nikolaisen* [2002 SCC 33] and by the Court of Appeal in *Ball v. Imperial Oil* [2010 ABCA 111]. It is also consistent with the general principle that the trier of fact is better situated than a subsequent review authority to make factual findings or draw inferences of fact given the trier of fact's exposure to the evidence and familiarity with the case as a whole.

21. In light of this guidance, the Commission addressed the role of a review panel and concluded that it should apply the following principles to its consideration of the review applications before it:

- First, decisions of the Commission are intended to be final; the Commission's rules recognize that a review should only be granted in those limited circumstances described in Rule 016.

- Second, the review process is not intended to provide a second opportunity for parties with notice of the application to express concerns about the application that they chose not to raise in the original proceeding.

- Third, the review panel's task is not to retry the … application based upon its own interpretation of the evidence nor is it to second guess the weight assigned by the hearing panel to various pieces of evidence. Findings of fact and inferences of fact made by the hearing panel are entitled to considerable deference, absent an obvious or palpable error.[8]

22. In Decision 22166-D01-2016[9], the Commission also provided guidance on the purpose of a review application:

> 30. The review process is not intended to provide a second opportunity for parties to reargue the issues in a proceeding, nor is it an opportunity to express concerns about a decision determining issues in a related proceeding.

23. Further, in Decision 22797-D01-2017,[10] the Commission stated:

> 42. … The review applicants repeated many of those same arguments in their respective review applications. A review application is not an opportunity to reargue or seek to bolster arguments previously made and rejected. In the absence of an error of fact, law or

[7] Decision 2012-124: AltaLink Management Ltd. and EPCOR Distribution & Transmission Inc., Decision on Request for Review and Variance of Decision 2011-436 Heartland Transmission Project, Proceeding 1592, Applications 1607924-1, 1607942-1, 1607994-1, 1608030-1, 1608033-1, May 14, 2012.

[8] Decision 2012-124, at paragraph 31.

[9] Decision 22166-D01-2016: Request for Review and Variance of Decision 21515-D01-2016, ATCO Pipelines' 2015-2016 Revenue Requirements Compliance Filing to Decision 3577-D01-2016, Proceeding 22166, April 5, 2017.

[10] Decision 22797-D01-2017: TransAlta Corporation and TransCanada Energy Ltd. Applications to Review and Vary Decision 21115-D01-2017, Proceeding 22797, December 11, 2017.

> jurisdiction that could lead the Commission to materially vary or rescind the original decision, disagreement or dissatisfaction with the Commission's interpretation or agreeing with a dissenting view are not grounds for granting a review.

24. These principles have been endorsed by the Commission in subsequent decisions and have been applied by the review panel in its consideration of the relevant evidence and argument in this case.

4 Grounds for review and hearing panel findings

25. The issue of the number of serviced lots for Calling Horse's customers is a question of fact. For the review panel to grant a review, Mr. Tupper must demonstrate that the hearing panel's error is apparent on the face of the rate rider decision, or otherwise exists on a balance of probabilities, and that the error could lead the Commission to materially vary or rescind the decision. The review panel has, in Section 4.1 of this decision, considered whether there has been an error of fact. In Section 4.2, the review panel provides some comments on the SIPs and the letter of Mr. Magus that raises a separate issue related to the historic capital funding for the UV system.

4.1 Section 4(d)(i) grounds – errors of fact, law or jurisdiction

26. The review panel finds that Mr. Tupper has not shown, either on a balance of probabilities or apparent on the face of the decision, that an error in fact, law or jurisdiction exists on this ground that could lead the Commission to materially vary or rescind the rate rider decision.

27. In the rate rider decision and in Decision 21908-D01-2017, the hearing panel and the Commission, respectively, based interim water rates for Salt Box on a total of 74 customers, which included 15 customers of Calling Horse.[11]

28. In the rate rider decision that is the subject of this review, the hearing panel affirmed the end-use customer base would continue to be calculated using 74 lots, based on a conservative approach, in the following paragraphs:

> 68. The Commission considers that all customers will benefit from the UV system upgrade, and as a result, all customers should share equally in the cost of funding the upgrade. In its application, Salt Box indicated that it provides service to 76 lots, two of which are unhooked but serviced. In Decision 21908-D01-2017, the Commission based the interim rates on 74 customers. The Commission will continue to take a conservative approach and base the monthly amount on 74 customers that, to date, are serviced by Salt Box. The resulting monthly amount for the UV rate rider would be $57.97 per customer, as shown below:

[11] Decision 21908-D01-2017, paragraphs 19 and 42.

Table 3. Calculation of monthly rider amount

Monthly loan amount	$4,289.78
Number of customers	74
Monthly amount per customer	$57.97

69. The Commission will round the monthly rate rider amount to $58.00/month per customer, for simplicity. Further, the Commission does not consider the $0.03/month amount to be material. The two water co-ops, Calling Horse Estates Co-operative Association Limited and Windmill Way Water Co-op operate their own distribution systems. The co-operatives deliver water supplied by Salt Box to its members, and pass on costs and expenses to those individual members. Based on a payment of $58.00/month per customer, the Commission has calculated the monthly amount that will apply to the two water co-ops and individual customers:

Table 4. Monthly UV rate rider by customer

Community	Customers	Monthly amount	
		Co-op	Customer
Calling Horse Estates Co-operative Association Ltd.	15	$870.00	
Windmill Way Water Co-op	30	$1,740.00	
Residents of Sandstone Ranch	18		$58.00
Residents of Deer Springs Close	11		$58.00

29. In paragraph 17 of the rate rider decision, the hearing panel expressly addressed its consideration of evidence on the record:

> In reaching the determinations in this decision, the Commission has considered all relevant materials comprising the record of this proceeding. Accordingly, references in this decision to specific parts of the record are intended to assist the reader in understanding the Commission's reasoning relating to a particular matter and should not be taken as an indication that the Commission did not consider all relevant portions of the record with respect to that matter.

30. In the application for review, Mr. Tupper noted that the hearing panel based the rate rider amount for Calling Horse on 15 customers. However, Exhibit 24295-X0071 and Exhibit 24295-X0072, indicated there were a total 17 lots in Calling Horse's service area. Mr. Tupper stated that six members do not receive their water from Calling Horse and, "one of these lots has been off the system for nearly 40 years, the others since July 2018. The calculation the Commission has used based the rate rider on 15 lots, it should be 11 lots."[12]

31. Mr. Tupper's submissions in the proceeding leading to the rate rider decision are found in Exhibit 24295-X0071 and are quoted below:

> Area 4 – Geographically, Calling Horse does have 17 lots but only 16 have been tied into the CHECAL [Calling Horse] distribution system for the last 35 years. Last summer we lost another 5 residents who drilled their own water wells due to uncertainties with AUC and Salt Box, in particular, AUC Proceeding 21908.

[12] Exhibit 25276-X0002, Mr. Tupper's application for review.

> The correct entries for Calling Horse should be amended to 11, population [sic.] should read 28.
>
> …
>
> Based on forecast expense numbers, inaccurate resident numbers and inaccurate lot counts. The fixed rates needs [sic.] to be adjusted to 11 lots, not seventeen lots.
>
> …
>
> Administrative Expenses – Salt Box has 31 customers, CHECAL has 16 of which 11 have several split charges and 5 are now off grid and paying different rates…[13]

32. In Exhibit 24295-X0072, another Calling Horse Estates resident stated that there are 17 households in Calling Horse Estates but only 11 households are currently being serviced by Salt Box's water source. The resident argued that the Commission should use the 11 households and the 31 people living in those households. He added that Calling Horse is invoiced once per month by Salt Box and therefore in all respects, Calling Horse is one customer to Salt Box. In addition, the piping from the pumphouse to each individual resident is owned, maintained and operated by Calling Horse.[14]

33. On October 31, 2019, Salt Box responded to the submissions of residents and provided a list of serviced lots, as follows:

The Ranch	18 lots
Deer Springs	11 lots
Windmill Way	30 lots
Calling Horse	17 lots (2 lots unhooked but connection is serviced).[15]

34. The review panel is not persuaded that the hearing panel's decision to base the UV system rate rider on 74 lots, including 15 lots for Calling Horse, results in, or constitutes, a reviewable error. While the hearing panel did not explicitly reference Exhibit 24295-X0071 and Exhibit 24295-X0072 in the rate rider decision, the Commission is not required to make a finding on every point relating to its decision, but rather only those of central importance to its decision. In *Stelco Inc. v British Steel Canada Inc.*, the Federal Court held that:

> [it]cannot be inferred from the fact that the reasons do not discuss a factor on which the Tribunal heard evidence that it must therefore have failed to consider it. A tribunal that is subject to a duty to give reasons […], must, of course, provide adequate reasons, but this does not mean that it must deal with every issue raised before it.[16]

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13 Exhibit 24295-X0071, Tupper letter, filed March 8, 2019, pages 2-3.
14 Exhibit 24295-X0072, Simon Corti letter, filed March 8, 2019, page 1.
15 Exhibit 24295-X0111, Salt Box letter, October 31, 2019, page 2.
16 *Stelco Inc. v British Steel Canada Inc.*, [2000] FCJ No. 286 at paragraph 24.

35. The Supreme Court of Canada in *Vavilov* confirmed that a tribunal does not need to respond to every argument, in the follow passage:

> Reviewing courts cannot expect administrative decision makers to "respond to every argument or line of possible analysis" (*Newfoundland Nurses*, at para. 25), or to "make an explicit finding on each constituent element, however subordinate, leading to its final conclusion" (para 16). To impose such expectations would have a paralyzing effect on the proper functioning of administrative bodies and would needlessly compromise important values such as efficiency and access to justice. However, a decision maker's failure to meaningfully grapple with key issues or central arguments raised by the parties may call into question whether the decision maker was actually alert and sensitive to the matter before it. In addition to assuring parties that their concerns have been heard, the process of drafting reasons with care and attention can alert the decision maker to inadvertent gaps and other flaws in its reasoning: *Baker*, at para. 39.[17]

36. The hearing panel was charged with reviewing the evidence submitted by Salt Box and its customers who receive transmission, and in some cases distribution service, from Salt Box, for the purposes of addressing the central issue of determining the rate rider associated with the UV system upgrade and the associated rider amounts to be borne by all Salt Box customers.

37. The evidence on the number of lots at Exhibit 24295-X0071 and Exhibit 24295-X0072 and the response submissions of Salt Box at Exhibit 24295-X0111 were on the record that led to the hearing panel's rate rider decision. The review panel considers that the hearing panel was alive to the issue of the number of customers or serviced lots at issue when the hearing panel stated that "In Decision 21908-D01-2017, the Commission based the interim rates on 74 customers. The Commission will continue to take a conservative approach and base the monthly amount on 74 customers that, to date, are **serviced** by Salt Box."[18] (emphasis added) The review panel considers that the hearing panel's reference to a conservative approach to calculating the UV system rate rider acknowledges that the number of lots serviced was reasonable for the purposes of calculating the rate rider, based on the evidence and submissions by parties to the proceeding. There is no error in the absence of a specific reference to the submissions of parties in allocating the costs to customers in the rate rider decision.

38. The review panel's task is not to retry the application based upon its own interpretation of the evidence and with respect to the request for review there is not sufficient support of an error in fact to support granting a review based on the record of the proceedings.[19] As noted in Section 3 of this decision, it is not the review panel's task to second guess the weight assigned by the hearing panel to various pieces of evidence and a hearing panel's decision is generally not reviewable absent obvious or palpable error. The review panel finds that no such error has been demonstrated here. The submissions of parties regarding the serviced lots for Calling Horse Estates was that the actual number ranged between 11 and 17. The review panel finds that there was not an error in fact by the hearing panel deciding to use 15 serviced lots, which is within that range of the number of lots provided by parties. The hearing panel made a finding of fact having

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[17] *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 paragraph 128, and see paragraph 301 of concurring reasons of Abella and Karakatsanis JJ.

[18] Decision 24295-D01-2019, paragraph 68.

[19] Proceeding 24295 and Proceeding 25276.

reviewed all of the evidence before it, which it then weighed before coming to a conclusion. The fact that Mr. Tupper does not agree with the weighting afforded by the hearing panel to the evidence before it or with the outcome is not a reviewable error.

39. In his application, Mr. Tupper further raised the question of whether there is a regulation that states physical disconnection of the lots is required versus a closed curb stop. Although there is no regulation that addresses this issue, the hearing panel based its rate rider decision on the number of lots for which Salt Box's system was expected to provide service, since 2017, and at the time the rate rider was set. Further, Calling Horse is the distribution company that is responsible for the physical connections, for temporarily or permanently addressing disconnections and for billing of active sites. The Commission has no jurisdiction over Calling Horse as a water cooperative operating in Alberta and the cooperative is governed by the provisions of the *Rural Utilities Act*. Accordingly, the review panel does not need to make a finding on Mr. Tupper's question. The response to his query has been provided in this paragraph.

40. For all of the above reasons, the review panel finds that Mr. Tupper has not shown on a balance of probabilities or that it is apparent on the face of the rate rider decision, that an error in fact exists that could lead the Commission to materially vary or rescind the hearing panel's decision, that is, to calculate the rate rider using a customer base of 15 serviced lots for Calling Horse Estates Co-operative Limited. Accordingly, Mr. Tupper's request for a review is denied.

4.2 Jeff Magus submissions

41. Mr. Magus filed a February 10, 2020 SIP and an attached letter disagreeing with charges under a previous contract and disputing amounts for Salt Box system upgrades between June 2015 and June 2017, including UV system upgrades. Mr. Magus alleged that these charges may result in potential duplication of UV system charges in the rate rider decision. He submitted that Salt Box has not provided audited financial statements to support the UV system upgrade, and that as a result, the hearing panel did not consider all of the relevant facts in setting the UV system rate rider. Neither the SIP nor the letter indicate a disagreement with the number of customers that was used in the allocation of the UV system rate rider, which is the subject of this review application.

42. The Commission addressed the contractual agreement and the past system upgrade charges in Decision 23401-D01-2018. In that decision, the Commission found:

> 35. On October 27, 2017, the Commission approved interim rates in Decision 21908-D01-2017, and these rates were effective November 1, 2017. Those interim rates are still in effect as of the date of this decision. Decision 21908-D01-2017 did not approve the $50 infrastructure repair expense because other rates were set for Salt Box's capital and operating requirements starting November 1, 2017. The $50 infrastructure repair expense is no longer being charged to customers.
>
> 36. The nature of the customers' complaints relate to a period of time when rates were not set by the Commission, i.e., prior to October 31, 2017. Customers are effectively asking for a retroactive adjustment to the infrastructure repair expense for the period from July 2015 to October 31, 2017…
>
> …

> 40. In summary, the Commission does not have the jurisdiction to address the complaint related to past infrastructure repair expenses and any corresponding arrears. Nothing in this decision precludes any dispute resolution process, or any other action pursued by customers or the utility, regarding the infrastructure repair expense and the arrears charged related to the expense amounts, available to parties under the laws and limitation periods in the Province of Alberta. Further, nothing in this decision precludes Salt Box from applying for adjusted rates to finance its capital on a go-forward basis. Customers will have the opportunity to make submissions on any proposed rate increases after Salt Box's next rate application has been filed with the Commission.

43. With respect to audited financial statements and the UV system rate rider, Mr. Magus provided comments on the audited financial statements and the calculation of the UV system rate rider that was available to the hearing panel prior to the issuance of the rate rider decision. In a November 6, 2019 letter in the proceeding leading to the rate rider decision, he submitted:

> There should be no decision on the rate-rider or final water rates until Salt Box provides audited financial reports. The Salt Box customers were invoiced a $50/month fee for a three year period by Salt Box for what was called an "upgrade fee". Some of the customers paid these fees and some have not but these "fees" do not appear anywhere in the unaudited financial statements that Salt Box provided to the AUC previously. Salt Box invoiced these fees to pay for upgrades including the UV system. There should therefore be some sort of adjustment made regarding the rate-rider for money already invoiced by Salt Box for this project…[20]

44. Given the findings in Decision 23401-D01-2018 and the rate rider decision, the Commission has already substantively addressed the concerns raised by Mr. Magus in his submissions and there was an opportunity to present submissions on Salt Box's UV system rate rider and on the relevance of audited financial statements for setting final rates in Proceeding 24295. As such, the review panel considers that it is not necessary to provide findings in response to Mr. Magus's SIP and letter because he has raised issues beyond the subject matter of the review and these were heard in the proceeding leading to Decision 23401-D01-2018 or in Proceeding 24295.

[20] Proceeding 24295-X0124, November 6, 2019 letter of Mr. Jeff Magus.

5 Decision

45. In answering the preliminary question, the review panel finds that Mr. Tupper has not met the requirements for a review of the findings of the hearing panel in Decision 24295-D01-2019 and the application for review is dismissed.

Dated on June 3, 2020.

Alberta Utilities Commission

(original signed by)

Kristi Sebalj
Commission Member