



## AMAR Developments Ltd.

Decision on application for review  
of Decision 25519-D02-2021  
Final Water Rates for Cambridge Park Estates

May 27, 2021

**Alberta Utilities Commission**

Decision 26429-D01-2021

AMAR Developments Ltd.

Decision on Preliminary Question

Application for Review of Decision 25519-D02-2021

Final Water Rates for Cambridge Park Estates

Proceeding 26429

Application 26429-A001

May 27, 2021

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**AMAR Developments Ltd.**  
**Decision on Preliminary Question**  
**Application for review of Decision 25519-D02-2021**  
**Final Water Rates for Cambridge Park Estates**

**Decision 26429-D01-2021**  
**Proceeding 26429**

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**1 Decision**

1. In this decision, the Alberta Utilities Commission must decide whether to grant an application filed by AMAR Developments Ltd. requesting a review and variance of specific findings in Commission Decision 25519-D02-2021, AMAR Developments Ltd., Final Water Rates for Cambridge Park Estates, February 9, 2021 (Decision). The Decision approved, on a final basis, rates effective March 1, 2021, including a fixed rate, variable charge, and supplemental variable charge.<sup>1</sup> AMAR’s review application concerned findings in the Decision regarding the variable charge.

2. The Commission has decided to allow the review application and has varied Decision 25519-D02-2021 to establish a variable charge of \$4.951/m<sup>3</sup> effective June 1, 2021 for the reasons provided below.

**2 Introduction**

3. On March 29, 2021, the Commission received a review application from AMAR requesting a review and variance of the Decision. The Commission designated the review application as Proceeding 26429.

4. On March 29, 2021, the Commission issued a filing announcement of the review application. Tanis Nicholls and the Cambridge Park Home Owners Association (Home Owners) registered to participate in the proceeding.

5. By letter dated April 15, 2021,<sup>2</sup> the Commission advised parties that pursuant to Section 8 of Rule 016, consideration of the review application would be determined in a single proceeding. Since the Commission decided to consider the application in a single proceeding, parties were permitted to provide submissions to address whether the Commission’s decision should be confirmed, rescinded or varied (i.e. the matters that would be considered in the second stage of a typical review proceeding).

6. The process included submissions from both the Home Owners<sup>3</sup> and Tanis Nicholls<sup>4</sup> (collectively the “interveners”) and reply submissions from AMAR.<sup>5</sup>

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<sup>1</sup> The supplemental variable rate is for consumption greater than 1.1 m<sup>3</sup>/day average over the month.

<sup>2</sup> Exhibit 26429-X0008: Process announcement, April 15, 2021.

<sup>3</sup> Exhibit 26429-X0016: HOA Response to Amars Application, May 6, 2021.

<sup>4</sup> Exhibit 26429-X0017: Nicholls.T-May.6.Comments.26429, May 6, 2021.

<sup>5</sup> Exhibit 26429-X0018: Reply of AMAR Developments Ltd. ID 26429, May 13, 2021.

7. The Commission considers that the record for this proceeding closed on May 13, 2021, the date on which reply submissions were filed.

8. In this decision, the members of the Commission panel who authored the Decision will be referred to as the “hearing panel” and the members of the Commission panel considering the review application will be referred to as the “review panel.”

9. In reaching its determinations, the review panel has reviewed the pertinent portions of the Decision and relevant materials comprising the record of this proceeding, Proceeding 26429. Accordingly, references in this decision to specific parts of the record are intended to assist the reader in understanding the review panel’s reasoning relating to a particular matter and should not be taken as an indication that the review panel did not consider all relevant portions of the several records with respect to the matter.

### **3 The Commission’s review process**

10. The Commission’s authority to review its own decisions is discretionary and is found in Section 10 of the *Alberta Utilities Commission Act*. Rule 016 sets out the process for considering an application for review.

11. The review process has two stages. In the first stage, a review panel decides if there are grounds to review the original decision (the preliminary question). If the review panel decides to review the decision, it moves to the second stage where it decides whether to confirm, vary, or rescind the original decision (the variance question).

12. In this decision, the review panel has decided both the preliminary question and the variance question.

13. In its review application, AMAR relied on Sections 4(d)(i) and 6(3)(a) of Rule 016.

14. 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 made by the hearing panel.
- ...

15. Section 6(3)(a) provides that the Commission may grant a review in the case of an application under subsection 4(d)(i) when 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.

### **4 Issues**

16. In the review application, AMAR summarized the alleged errors as follows:

- The calculation of overcollected amounts for May-December 2020 unfairly prejudices AMAR as the Commission has used two different methodologies.

- The Commission erroneously determined that its averaging of the 2020 approved revenue requirement (and billing determinants) over 12 months was fair to both Customers and AMAR.
- The final rate of \$3.495/m<sup>3</sup> determined in the Decision to be in effect as of March 1, 2021 will result in large financial losses for AMAR during 2021.
- The Commission's decisions and determinations failed to recognize that AMAR will be unable to able to recover these losses in subsequent years as the water distribution system will be taken over by Rocky View County at or near the end of 2021.

17. The review panel characterises the grounds for AMAR's review application as errors in fact concerning the method used to calculate the final rates. In brief, the issue raised by AMAR is that the hearing panel assessed monthly costs based on a monthly average over the entire period of 2020, which was mismatched with the approved revenue requirement for the period from May to December 2020. This method underestimated the costs that would be incurred between May and December 2020. In its application, AMAR seeks to have the decision varied such that the same time period is used for assessing both the costs and revenue requirement in the calculation of the variable rate.

18. In its application, AMAR stated that the Commission's methodology to calculate the overcollection amount is incorrect. The overcollection amount is the difference between the approved revenue amount and the amounts collected from customers. This overcollection amount forms part of the calculation of the 2021 variable rate.

19. AMAR explained that the method used by the hearing panel assumes that the revenue requirements and billing determinants for each month of the year are exactly the same. AMAR stated that in Decision 25519-D02-2021, the Commission determined that it only had the jurisdiction to revise rates as of May 1, 2020 and onward and therefore it should have established the revenue requirement of AMAR for a period beginning May 1, 2020, and not annualized the 2020 approved revenue requirement over a period of 12 months back to January 1, 2020. This caused a mismatch between revenues (which were assessed from May to December) and approved costs (which were assessed from January to December) for purposes of calculating the overcollection amounts. AMAR explained that in order to calculate the overcollection amounts, a single methodology must be used that properly accounts for the volume fluctuations and costs which occurred during the May to December period of 2020.

20. AMAR argued that the Commission erred when it concluded that equally prorating the revenue requirement over 12 months "would be fair to both parties", when the only beneficiary is the Customers because of the \$30,600 monthly revenue requirement cap.<sup>6</sup>

21. For AMAR, the effect of the decision is that it under recovered revenue relative to its costs for the period May 1, 2020 to December 31, 2020, incurring a loss. Also, AMAR expects to transfer ownership of the distribution system to Rocky View County later in 2021 and it will not be able to recover this loss.

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<sup>6</sup> Exhibit 26429-X0002, application, page 7.

22. AMAR has proposed a methodology that bases the calculation of overcollection on the actual revenue requirements and collected revenues from May 1, 2020 to December 31, 2020. AMAR provided its proposed calculations in Appendix A of its application.

23. In their submissions, the Home Owners<sup>7</sup> and Tanis Nicholls<sup>8</sup> both noted that AMAR used an incorrect variable rate in calculating the January and February 2021 collections.

24. In its reply submission, AMAR acknowledged the error and updated its schedules to reflect the correct January and February variable rate of \$5.00/m<sup>3</sup> instead of \$4.65/m<sup>3</sup>. AMAR also made a correction to its fixed revenue calculation for March to April. AMAR calculated a net collection from customers of \$17,008. As a result, the variable charge sought by AMAR for 2021 should be \$4.951/m<sup>3</sup>.<sup>9</sup>

25. The interveners took issue with AMAR's claim that it will not be able to recover its losses in future years due to the expected transfer of its distribution system to Rocky View County later in 2021. The Home Owners explained that it has contacted Rocky View County to find out the date and timeline of the required waterline extension and has not received any timeline. The Home Owners also stated that AMAR provided a copy of the Request For Proposal (RFP) for procuring the engineering services to determine the cost of building the pipeline. The RFP does not guarantee that the pipeline will be built before fall 2021.<sup>10</sup> Tanis Nicholls shared similar concerns about the timing of construction of waterline extension needed to connect the distribution system to the Rocky View County system.<sup>11</sup>

26. In its reply, AMAR stated that the timing of this transfer is not relevant to this proceeding and that the Commission took the contemplated transfer into consideration in a way that adversely affected AMAR, in that due to the short-term nature of AMAR's rates, the Commission did not allow for recovery of depreciation, return and taxes in its revenue requirement. If AMAR had been able to recover these items, the rates for 2020 and 2021 would have been higher.<sup>12</sup>

27. The review panel agrees with AMAR that the system transfer is not relevant and also notes that in Decision 25519-D02-2021, the hearing panel approved water rates for 2022 in the event that the pipeline is delayed or Rocky View County does not assume operations prior to 2022.<sup>13</sup> Issues raised by the interveners concerning forecast costs that were approved in the Decision have not been considered by the review panel, since the review application was limited to an examination of the methodology used to calculate the variable rate.

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<sup>7</sup> Exhibit 26429-X0016, HOA responses, page 3.

<sup>8</sup> Exhibit 26429-X0017, Nicholls.T-May.6.Comments, page 2.

<sup>9</sup> Exhibit 26429-X0018, AMAR reply, pages 5-6.

<sup>10</sup> Exhibit 26429-X0016, HOA responses, pages 4-6.

<sup>11</sup> Exhibit 26429-X0017, Nicholls.T-May.6.Comments, pages 1-2.

<sup>12</sup> Exhibit 26429-X0018, AMAR reply, page 3.

<sup>13</sup> Decision 25519-D02-2021, paragraphs 151-153.

## **5 Decision**

### **5.1 Stage 1 – Is there an error on the face of the Decision or that otherwise exists on a balance of probabilities?**

28. In Decision 25519-D02-2021, the hearing panel determined a final variable rate of \$3.495/m<sup>3</sup> to be effective March 1, 2021. To calculate this rate, the hearing panel determined that AMAR overcollected \$57,542 from May to December 2020 based on the monthly data provided by AMAR and subsequent corrections to the data made by the Commission. The 2020 overcollection amount was determined by calculating the approved annual revenue requirement of \$367,200 and dividing by 12 to get the average monthly revenue requirement of \$30,600. The average monthly revenue requirement was compared to the actual and forecast consumptions between May 1, 2020 and December 31, 2020 and the difference was calculated as the overcollection amount. In paragraph 112 of Decision 25519-D02-2021, the hearing panel explained that it would allocate all the 2020 expenses over a 12-month period “in order to maintain fairness to both customers and the utility”.<sup>14</sup>

29. The review panel finds that AMAR has demonstrated that an error is obvious on the face of the Decision, or otherwise exists on a balance of probabilities. Moreover, the review panel considers that the method used to calculate the variable rate could lead the review panel to materially vary the findings in the Decision regarding the variable rate.

30. The review panel agrees with AMAR that the methodology used to determine the 2021 variable charge was incorrect. By averaging the revenue requirement over 12 months, the methodology failed to take into account the higher water hauling costs during the periods of higher usage that occurs in the summer and fall. The review panel agrees with AMAR that these higher costs in the summer and fall were the main driver of its Interim rates that were approved effective July 1, 2020 in Decision 25519-D01-2020. The variable rate calculated in that Decision would have taken into account the seasonality of such costs, while the final rate determined in Decision 25519-D02-2021 did not. The review panel finds that by averaging the 2020 revenue requirement over 12 months AMAR would not have an opportunity to recover the full revenue requirement from May 1, 2020 to December 31, 2020.

### **5.2 Stage 2 – Should the Decision be confirmed, rescinded or varied?**

31. Based on the above, the review panel finds that the 2020 revenue requirement should be based on the actual revenue requirements from May 1, 2020 to December 31, 2020 and that the Decision should be varied accordingly. The review panel finds AMAR’s updated calculations provided in its reply submission and the resulting 2021 variable charge of \$4.951/m<sup>3</sup> accurately reflect this change.

32. Accordingly, the review panel approves a revised variable charge of \$4.951/m<sup>3</sup> and it varies the Decision by deleting paragraphs 112-113, paragraphs 148-149 and Appendix 2 and replacing them as follows:

112. The Commission also indicated it would consider the manner in which to pro-rate the 2020 revenue requirement for the period May 1, 2020, to December 31, 2020. In pro-rating the revenue requirement, the Commission has reviewed each of the line item

<sup>14</sup> Exhibit 26429-X0002, application, page 5.



amounts in Table 6. On a forecast basis, the Commission is of the view that a utility would allocate these expenses on an equal basis over the year. Generally, this is the approach that was taken by AMAR. However, based on an updated Table 5.1,<sup>15</sup> the Commission notes that the majority of water testing, maintenance and repairs, water hauling, chemicals, water well and professional fees for 2020 have occurred or are forecast to occur in May 2020 to December 2020. As a result the Commission will pro-rate the revenue requirements based on actual revenue requirement for the period May 1, 2020 to December 31, 2020 due to the higher expected expenses during this period.

113. [paragraph deleted]

...

148. Based on rates that were charged in 2020, both those in place prior to and those approved on an interim basis in Decision 25519-D01-2020, AMAR has under collected revenues of the approved revenue requirement and management fee approved in this decision. In particular, from May 1, 2020, to December 31, 2020, AMAR has under collected revenues in the amount of \$4,768, as shown in Appendix 2. The Commission has detailed these reconciliations in the table below:

**Table 1. Reconciliation and determination of 2021 rates**

<b>2020 Reconciliation</b>	
Actual Revenue Requirement (Appendix 2, May 1, 2020 – Dec 31, 2020)	307,113
Actual Revenue Collected (Appendix 2, May 1, 2020 – Dec 31, 2020)	<u>302,345</u>
Undercollection in 2020 (Appendix 2, Net Revenue May to December 2020)	\$(4,768)
Approved management fee for 2020, pro-rated from May to December 2020	<u>(12,240)</u>
<b>Net undercollection in 2020 (collection from customers)</b>	<b>\$(17,008)</b>
<b>2021 Revenue collected on fixed and variable rates in January and February</b>	
Forecast number of customers	201
Forecast consumption January and February (m <sup>3</sup> )	10,576*
2021 Fixed revenue [201 x \$20/month x 2 months]	8,040
2021 Variable revenue [10,576 x \$5.00/m <sup>3</sup> ]	<u>52,880</u>
<b>Total revenue in January and February 2021</b>	<b>\$60,920</b>
<b>2021 Revenue collected on fixed and variable rates in March, April and May</b>	
Forecast number of customers	201
Forecast consumption March, April and May (m <sup>3</sup> )	17,626*
2021 Fixed revenue [201 x \$20/month x 3 months]	12,060
2021 Variable revenue [17,626 x \$3.495/m <sup>3</sup> ]	<u>61,603</u>
<b>Total revenue in March, April and May 2021</b>	<b>73,663</b>
<b>Total revenue from January to May 2021</b>	<b>\$134,583</b>
<b>2021 collections</b>	

<sup>15</sup> Exhibit 25519-X0093, IR R2 Attachment to AMAR-CPR-2020-OCT13-001(1), Table 5.1 tab.

2021 Approved revenue requirement	397,600
2021 Management fee	19,880
<b>Total amount to be collected in 2021</b>	<b>\$417,480</b>
<b>Refunds and collections</b>	
Net undercollection in 2020 (collection from customers)	17,008
Total revenue from January to May 2021	(134,583)
Forecast fixed charge, June to December [201 x \$20/month x 7 months]	(28,140)
Forecast supplement variable charge [5,000 m <sup>3</sup> x \$14.50/m <sup>3</sup> ]	(72,500)
<b>Remaining amount to be collected in 2021 with the variable charge</b>	<b>\$199,265</b>
2021 Forecast volume - June to December [68,452 - 17,626 - 10,576] (m <sup>3</sup> )	40,250
<b>2021 Forecast variable charge (\$/m<sup>3</sup>)</b>	<b>4.951</b>

\*Source: Exhibit 25519-X0105, Consumption for January to February 2021 (5,288 m<sup>3</sup> + 5,288 m<sup>3</sup> = 10,576 m<sup>3</sup>), Consumption for March to June 2021 (5,343 m<sup>3</sup> + 5,398 m<sup>3</sup> + 6,885 m<sup>3</sup> = 17, 626 m<sup>3</sup>)

149. Based on these calculations, the Commission approves the following water rates effective June 1, 2021:

**Table 2. 2021 approved rates**

	Fixed rate	Variable charge	Supplemental variable charge
	(\$/month)	(\$/m <sup>3</sup> )	(> 1.1 m <sup>3</sup> /day average over month)
2021	20.00	4.951	14.50

...

**Appendix 2 (document follows on next page)**



26429\_X0004\_Review  
 w Variance Table 5-

Dated on May 27, 2021.

**Alberta Utilities Commission**

*(original signed by)*

Carolyn Dahl Rees  
 Chair

*(original signed by)*

Douglas A. Larder, QC  
 Acting Commission Member

**Cambridge Park Water System**

**Revenue Requirements and Total Revenue**

Table 5.3 and Table 5.4 Combined (Revised November 10, 2020)

AMAR-CPR-2020-OCT13-001(1)

Review and Variance Request

Line No.	2020	January	February	March	April	May	June	July 1-17	July 18-31	August	September	October	November	December	Totals (May to Dec)	
<b>Expenses</b>																
1	Gross Revenue Requirement	\$367,205	\$15,450	\$14,488	\$12,960	\$12,193	\$41,421	\$51,211	\$25,297	\$25,312	\$56,476	\$48,988	\$18,436	\$21,736	\$18,236	\$307,113
2	Other Income	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
3	<b>Net Revenue Requirement</b>	<b>\$367,205</b>	<b>\$15,450</b>	<b>\$14,488</b>	<b>\$12,960</b>	<b>\$12,193</b>	<b>\$41,421</b>	<b>\$51,211</b>	<b>\$25,297</b>	<b>\$25,312</b>	<b>\$56,476</b>	<b>\$48,988</b>	<b>\$18,436</b>	<b>\$21,736</b>	<b>\$18,236</b>	<b>\$307,113</b>
<b>Demands and Rates</b>																
4	Number of Connections (Mid Year)	184	173	175	175	178	180	181	186	186	191	191	191	192	193	
5	Fixed Rate (\$ per connection)	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	
6	Demand Rate (\$ per c.m.)	\$3.706	\$3.706	\$4.45	\$4.45	\$4.45	\$4.45	\$4.45	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	
7	Demand Rate Supplemental Water (\$ per c.m.)	\$14.500	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000	\$0.000	\$14.500	\$14.500	\$14.500	\$14.500	\$14.500	\$14.500	\$14.500	
8	Annual Demand Volume (Customer Meter)	61691	4874	4273	4912	5239	5605	6636	3893	2151	4930	4751	4811	4928	4688	
9	Estimated Water Use over 1.1 c.m. /day	4756	0	0	0	0	0	0	0	579	1339	1428	450	360	600	
<b>Annual Revenues</b>																
10	Fixed Revenue (\$) [L5 x L4]	\$44,120	\$3,460.00	\$3,500.00	\$3,500.00	\$3,560.00	\$3,600.00	\$3,620.00	\$2,040.00	\$1,680	\$3,820	\$3,820	\$3,820	\$3,840	\$3,860	\$30,100
11	Demand Revenue (\$) [L6 x L8]	\$282,162	\$18,063.04	\$15,835.74	\$21,858.40	\$23,313.55	\$24,942.25	\$29,530.20	\$17,323.85	\$10,755.00	\$24,650.10	\$23,755.00	\$24,055.00	\$24,640.00	\$23,440.00	\$203,091
12	Demand Supplemental (\$) [L7 x L9]	\$68,966	\$0	\$0	\$0	\$0	\$0	\$0	\$8,396.95	\$19,418.11	\$20,706.00	\$6,525	\$5,220	\$8,700	\$68,966	
13	Late Payment Penalty	\$548	\$81	\$78	\$102	\$99	\$87	\$101								
14	<b>Total Revenue (\$)</b>	<b>#####</b>	<b>\$ 21,605</b>	<b>\$ 19,414</b>	<b>\$ 25,460</b>	<b>\$ 26,973</b>	<b>\$ 28,629</b>	<b>\$ 33,251</b>	<b>\$ 19,364</b>	<b>\$ 20,832</b>	<b>\$ 47,888</b>	<b>\$ 48,281</b>	<b>\$ 34,400</b>	<b>\$ 33,700</b>	<b>\$ 36,000</b>	<b>\$302,345</b>
15	<b>Net Revenue [L13-L3]</b>	<b>\$28,591</b>	<b>\$6,154</b>	<b>\$4,925</b>	<b>\$12,500</b>	<b>\$14,779</b>	<b>-\$12,792</b>	<b>-\$17,960</b>	<b>-\$5,933</b>	<b>-\$4,480</b>	<b>-\$8,588</b>	<b>-\$707</b>	<b>\$15,964</b>	<b>\$11,964</b>	<b>\$17,764</b>	<b>-\$4,768</b>
<b>Average Water Use (c.m./month/connection)</b>																
		30.09	28.17	24.42	28.07	29.43	31.14	36.66		35.61	32.82	32.35	27.40	27.40	27.40	

Cells that have been modified based on February 9 Commission Decision Appendix 2  
 Actual Monthly revenue requirements