



**Apex Utilities Inc.**

**Code of Conduct Regulation  
Compliance Plan Amendments**

**October 27, 2021**

**Alberta Utilities Commission**

Decision 26302-D02-2021

Apex Utilities Inc.

Code of Conduct Regulation

Compliance Plan Amendments

Proceeding 26302

Application 26302-A001

October 27, 2021

Published by the:

Alberta Utilities Commission

Eau Claire Tower

1400, 600 Third Avenue S.W.

Calgary, Alberta T2P 0G5

Telephone: 310-4AUC (310-4282 in Alberta)

1-833-511-4AUC (1-833-511-4282 outside Alberta)

Email: [info@auc.ab.ca](mailto:info@auc.ab.ca)

Website: [www.auc.ab.ca](http://www.auc.ab.ca)

The Commission may, within 60 days of the date of this decision and without notice, correct typographical, spelling and calculation errors and other similar types of errors and post the corrected decision on its website.

## Contents

<b>1</b>	<b>Decision summary .....</b>	<b>1</b>
<b>2</b>	<b>Background and procedural summary .....</b>	<b>1</b>
<b>3</b>	<b>Amendments .....</b>	<b>2</b>
<b>4</b>	<b>Order .....</b>	<b>4</b>



## **1 Decision summary**

1. In this decision, the Alberta Utilities Commission has approved the application of Apex Utilities Inc. (AUI) to amend its *Code of Conduct Regulation* Compliance Plan (Compliance Plan), effective October 29, 2021.

## **2 Background and procedural summary**

2. On November 12, 2020, the *Code of Conduct Regulation* was amended necessitating changes to AUI's Compliance Plan.

3. AUI filed an application with the AUC on February 8, 2021, requesting approval of changes to its Compliance Plan, pursuant to Section 32 of the *Code of Conduct Regulation*.<sup>1</sup>

4. The Commission approved the application on March 24, 2021, in Decision 26302-D01-2021.

5. On March 31, 2021, the Commission issued Bulletin 2021-06: *Repeal of Rule 030: Compliance with the Code of Conduct Regulation*, repealing Rule 30 as of April 1, 2021. The repeal of this rule reflected the November 2020 amendments to the *Code of Conduct Regulation*, that removed or updated the following required sections from utilities' *Code of Conduct Regulation* compliance plans:

- (a) Section 8 (Meetings between distributors or regulated rate suppliers and retailers and customers);
- (b) Section 25 (Records and accounts);
- (c) Section 26 (Written financial transactions);
- (d) Section 27 (Records of transactions for goods and services);
- (e) Section 28 (Maintaining records); and
- (f) Section 33 (Quarterly and annual compliance reports) was also edited to remove quarterly reporting requirements.

---

<sup>1</sup> Alberta Regulation 58/2015, as amended.

6. On July 12, 2021, the Commission issued a letter advising of its intention to introduce specific provisions within *Code of Conduct Regulation* compliance plans concerning the Commission's audit oversight and the obligation of parties to retain records for the purposes of that audit. In response to the Commission's July 12, 2021 letter, AUI filed a post-disposition submission on September 24, 2021, requesting approval of the further amendments to its Compliance Plan. The Commission considers the record of this proceeding to have closed on September 24, 2021.

7. In reaching the determinations contained within 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.

### 3 Amendments

8. By its application of September 24, 2021, AUI seeks approval of:

- (a) Changes to Section 8.1 and to add Appendix E: List of Compliance Records to reflect the audit change provisions proposed in the Commission's July 12, 2021 letter;
- (b) Changes to sections 1.1.6. and 6.1.1 to permit AUI to provide a copy of the Compliance Plan to its personnel and contractors only in the event an amendment to its Compliance Plan affects those parties;
- (c) Changes to Section 6.2 to remove specific reporting periods and to remove subsection 6.2.2 to reflect the repeal of Rule 030.

9. Subsection 32(2) of the *Code of Conduct Regulation* states:

A change to a compliance plan must be submitted to the Commission for approval

- (a) within 60 days following a change in circumstances or an amendment to this Regulation that requires a change to a compliance plan, or
- (b) as soon as practicable when a change to the plan is made for a reason other than a reason referred to in clause (a).

10. Subsection 32(3) of the *Code of Conduct Regulation* states:

On receipt of a proposed change to a compliance plan, the Commission may

- (a) approve the proposed change, with or without changes and with or without conditions,
- (b) direct other changes to be made to the compliance plan, or
- (c) refuse to approve the proposed change.

11. The Commission is satisfied that the proposed amendments to Section 8.1 and the addition of Appendix E aligns with provisions proposed for the retention of compliance records pursuant to the audit requirements under Section 40 of the *Code of Conduct Regulation*. Accordingly, the Commission approves the proposed changes to Section 8.1, and the addition of Appendix E, to the Compliance Plan.

12. Likewise, the proposed amendments to sections 6.2 and 6.2.2 appropriately respond to the repeal of Rule 030 and these amendments are also approved.

13. Regarding the proposed amendments to sections 1.1.6 and 6.1.1, AUI proposed to amend the language in these sections as follows:

1.1.6. Within thirty (30) days of receiving Alberta Utilities Commission (**Commission, AUC**) approval, the **Compliance Officer** will provide a written or electronic copy of this **Compliance Plan**, including ~~any~~ the approved amendment(s), to all **Personnel**, and applicable **Contractors** affected by the amendment(s);

6.1.1 Consistent with [Section 1.1.6](#), within thirty (30) business days of receiving **Commission** approval, the **Compliance Officer** will provide a written or electronic copy of this **Compliance Plan**, including any approved amendment(s), to all **Personnel** and **Contractors** affected by the amendment(s);<sup>2</sup>

[underlining and strike-through tracked changes and bolding in original]

14. Subsection 32(5)(c) of the *Code of Conduct Regulation* states, in part:

(5) Each distributor, regulated rate supplier and affiliated provider of a distributor or regulated rate supplier shall, as soon as practicable after receiving the Commission's approval of changes to its compliance plan, send a copy of the changes to the compliance plan

[...]

(c) to its officers, employees, agents and contractors affected by the plan.

15. The requirement in the regulation obligates AUI to send a copy of changes to an approved *Code of Conduct Regulation* compliance plan to those parties that it determines are affected by the plan. Further, the Commission is concerned that it could be confusing to AUI's plan recipients to receive differing versions of the plan, or even just amendments, depending on whether the amendments at that time, were assessed by AUI to affect those recipients. For these reasons, pursuant to subsection 32(3) of the regulation, the Commission requires AUI to continue to provide a complete copy of its Compliance Plan, as may be amended from time to time, to all officers, employees, agents and contractors affected by the plan and directs AUI to delete the proposed language "affected by the amendments" from sections 1.1.6 and 6.1.1 and to substitute this language with "affected by the plan."

---

<sup>2</sup> Exhibit 26302, Post-disposition documentation, Appendix 2-AUI *Code of Conduct Regulation* Compliance Plan- Blackline.

**4 Order**

16. It is hereby ordered that:

- (1) The Apex Utilities Inc. *Code of Conduct Regulation* Compliance Plan is approved with the above changes and AUI is directed to file its updated Compliance Plan as a post-disposition matter to this proceeding by November 5, 2021.

Dated on October 27, 2021.

**Alberta Utilities Commission**

*(original signed by)*

Carolyn Hutniak  
Commission Member