



**ATCO Electric Ltd., ATCO Energy Ltd.
and ATCO Gas(a division of ATCO Gas
& Pipelines Ltd.)**

**Amendments to Code of Conduct Regulation
Compliance Plans**

February 25, 2022

Alberta Utilities Commission

Decision 27005-D01-2022

ATCO Electric Ltd., ATCO Energy Ltd.
and ATCO Gas (a division of ATCO Gas
& Pipelines Ltd.)

Amendments to Code of Conduct Regulation

Compliance Plans

Proceeding 27005

Application 27005-A001

February 25, 2022

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1 Introduction

1. In this decision, the Alberta Utilities Commission has approved the application of ATCO Electric Ltd., ATCO Gas (a division of ATCO Gas & Pipelines Ltd.) and ATCO Energy Ltd., (collectively ATCO) to amend their *Code of Conduct Regulation Compliance Plans* (CCR compliance plans).
2. ATCO filed applications with the Alberta Utilities Commission on November 25, 2021, requesting approval of amendments to each of the three CCR compliance plans pursuant to Section 32 of the *Code of Conduct Regulation*.
3. 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).
4. On November 12, 2020, the *Code of Conduct Regulation* was amended, necessitating changes to ATCO's CCR compliance plans.
5. In response to the changes to the *Code of Conduct Regulation*, the Commission repealed Rule 030: *Compliance with the Code of Conduct Regulation*, which affected the requirements for CCR compliance plans in the following ways:
 - (a) Repeal of Section 8 (Meetings between distributors or regulated rate suppliers and retailers and customers), Section 25 (Records and accounts), Section 26 (Written financial transactions), Section 27 (Records of transactions for goods and services) and Section 28 (Maintaining records).
 - (b) Amendments to Section 33 (Quarterly and annual compliance reports), removing the requirements to submit quarterly compliance reports to the AUC.
 - (c) Amendments to Section 40 (Audits), reducing the frequency of compliance audits from at least once every 36 months to at least once every 10 years.
 - (d) Amendments to Section 41 (Audit report) to exempt small REAs (fewer than 1,400 members) from the audit requirement.

- (e) Removal of the requirement for utilities to report instances of non-compliance within 30 days of discovery.

6. In order to address the removal of record retention requirements from the *Code of Conduct Regulation*, the Commission issued a letter on July 12, 2021, requiring that utilities retain certain records relevant to audits for a minimum of three years.

7. The Commission issued a notice of application on December 3, 2021, asking for statements of intent to participate (SIPs) by December 17, 2021. The Consumers' Coalition of Alberta (CCA) submitted a SIP, requesting that the Commission suspend Proceeding 27005 until the conclusion of Proceeding 27013,¹ which pertains to an enforcement matter that involves ATCO's *Inter-Affiliate Code of Conduct*. Following a response from ATCO, the CCA amended its request for a suspension but asked that certain provisions of the amended CCR compliance plans be made conditional (i.e., subject to a placeholder), pending the conclusion of Proceeding 27013. No other SIPs were received.

8. The Commission considers the record for this proceeding closed as of January 26, 2022, the date of ATCO's last letter to the AUC.

9. 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.

2 Amendments

10. Subsection 32(3) of the *Code of Conduct Regulation* authorizes the Commission to consider changes to a compliance plan and 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 majority of the amendments to CCR compliance plans proposed in ATCO's applications are directly related to the changes detailed in paragraph 5 above. Specifically, the newly proposed Appendix A to each CCR compliance plan contains record retention references that account for all of the records required by the AUC in its July 2021 letter.

¹ Proceeding 27013, Application of AUC Enforcement staff for the commencement of a proceeding pursuant to sections 8 and 63 of the *Alberta Utilities Commission Act*, regarding ATCO Electric Ltd.

12. In its applications, ATCO also proposes to add the following provisions to Section 9.0 (Confidentiality of customer information) of the CCR compliance plans:²

3. ATCO [Electric/Gas/Energy]³ will report disclosures of customer information as follows:

- a. Any disclosure of customer information to an affiliated provider that is not permitted by Section 10 of the [Code of Conduct] Regulation will be reported in ATCO [Electric/Gas/Energy]'s annual report under Section 33 of this Compliance Plan.
- b. Any disclosure of customer information that is not permitted by Section 10 of the Regulation, and to which the *Freedom of Information and Protection of Privacy Act* or the *Personal Information Protection Act* does not apply, shall be reported in ATCO [Electric/Gas/Energy]'s annual report under Section 33 of this Compliance Plan.
- c. Any disclosure of customer information to a person or entity other than an affiliated provider that is not permitted by Section 10 of the Regulation, and to which the *Freedom of Information and Protection of Privacy Act* or the *Personal Information Protection Act* applies, shall be reported to ATCO [Electric/Gas/Energy]'s Privacy Officer and in accordance with ATCO's privacy commitments and any applicable requirements of the *Freedom of Information and Protection of Privacy Act* and the *Personal Information Protection Act*.

13. The intent of these changes is to clarify the reporting of privacy breaches that are under the purview of either the Information and Privacy Commissioner or the AUC. ATCO stated that the proposed changes will also reduce administrative burden.

14. The *Code of Conduct Regulation* is concerned with customer information insofar as preventing any single utility from having unequal access to information disclosed by distribution companies. Further, the regulation allows disclosure that is permitted within *Freedom of Information and Protection of Privacy Act* and the *Personal Information Protection Act*.⁴

15. If there are privacy breaches with disclosure that is not permitted under privacy legislation, there are remedies available under *Freedom of Information and Protection of Privacy Act* and the *Personal Information Protection Act*.

16. The Commission agrees with ATCO's proposed provisions to distinguish the reporting and disclosure requirements to the AUC under the *Code of Conduct Regulation*, from the reporting requirements governed by the *Freedom of Information and Protection of Privacy Act* and the *Personal Information Protection Act*.

17. The Commission is satisfied that the amendments proposed to ATCO's CCR compliance plans are consistent with continued compliance with, and sufficiently address the requirements of, the *Code of Conduct Regulation*. Further, the amendments align with the requirements communicated in the Commission's July 2021 letter.

² Note that two subsections currently exist in Section 9 of ATCO's CCR compliance plans. The additions will be made after the existing subsections.

³ While the proposed Section 9 wording is identical in all three CCR compliance plans, the name of the ATCO company changes accordingly.

⁴ Section 10(1)(c) of the *Code of Conduct Regulation*.

18. The CCA suggested that, based on the issues under consideration in Proceeding 27013, the three-year record retention period should be made conditional. As the three-year period was specified by the AUC in the July 2021 letter, the Commission considers that a conditional approval and placeholder treatment is not warranted. In addition, the Commission agrees with ATCO⁵ that if changes are required to ATCO's CCR compliance plans filed under the *Code of Conduct Regulation*, an application to amend the CCR compliance plans can be made in the future (for example, after the conclusion of Proceeding 27013).

19. For the above reasons, the Commission approves the amended CCR compliance plans as submitted by ATCO, including the proposed additions to Section 9.0 (Confidentiality of customer information).

3 Order

20. It is hereby ordered that:

- (1) ATCO Electric Ltd.'s revised *Code of Conduct Regulation* Compliance Plan is approved in accordance with the Commission's findings in this decision, effective March 1, 2022.
- (2) ATCO Gas & Pipelines Ltd.'s revised *Code of Conduct Regulation* Compliance Plan is approved in accordance with the Commission's findings in this decision, effective March 1, 2022.
- (3) ATCO Energy Ltd.'s revised *Code of Conduct Regulation* Compliance Plan is approved in accordance with the Commission's findings in this decision, effective March 1, 2022.

Dated on February 25, 2022.

Alberta Utilities Commission

(original signed by)

Carolyn Dahl Rees
Chair

⁵ Exhibit X0015-2022, ATCO January 26, 2022 letter, PDF page 2.