



**Enforcement Staff of the
Alberta Utilities Commission**

**Settlement Agreement with The City of Calgary –
Enforcement and Administrative Penalty**

March 14, 2023

Alberta Utilities Commission

Decision 27854-D01-2023

Enforcement Staff of the Alberta Utilities Commission

Settlement Agreement with The City of Calgary – Enforcement and Administrative Penalty
Proceeding 27854

March 14, 2023

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The Commission may, no later than 60 days from 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.

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1 Decision summary

1. In this decision, the Alberta Utilities Commission approves the settlement agreement between AUC Enforcement staff and The City of Calgary related to disclosures by Calgary in breach of a confidentiality order of the Commission in Proceeding 26615¹ (contravention). In accordance with the settlement agreement, the Commission imposes a one-time penalty on Calgary of five-thousand dollars (\$5,000) for the contravention.

2 Background and AUC Enforcement staff's application

2. Enforcement staff started an investigation following a referral from the Commission panel that presided over Proceeding 26615. In that proceeding, the Commission panel issued a confidentiality order with respect to certain evidence (confidential information) filed by ATCO Electric Ltd. To gain access to the confidential information, individuals participating on behalf of Calgary filed confidentiality undertakings which, among other things, required each recipient to “use all reasonable and necessary efforts to safeguard the confidential information and related materials from any unauthorized disclosure or use,” and to “not disclose the confidential information or related materials to any person except to the Commission or to a person who is authorized by the Commission to receive access to the confidential information and who has executed and filed with the Commission an undertaking, unless otherwise required by law.”

3. Calgary subsequently, on two occasions, filed evidence on the public record of the proceeding that was later confirmed to be confidential information. First, on February 9, 2022, Calgary filed a motion for further and better responses to information requests. An appendix attached by Calgary to that motion included what ATCO Electric asserted to be confidential information. ATCO Electric notified the Commission that confidential information had been filed on the public record. The relevant appendix was voided by Commission staff one hour and 50 minutes after being filed on the public record.

4. Second, on March 4, 2022, Calgary filed supplemental evidence from a third-party consultant that again was asserted by ATCO Electric to contain confidential information. ATCO Electric notified the Commission that confidential information had been filed on the public record. The relevant document was voided by Commission staff one hour and 27 minutes after being filed on the public record.

5. In a subsequent ruling dated April 25, 2022, in response to a request for direction by Calgary, the Commission panel found that Calgary had disclosed confidential information in its February 9 and March 4 public filings. The Commission provided notice to parties that Calgary's

¹ Proceeding 26615, ATCO Electric Ltd. and FortisAlberta Inc., 2023 Cost-of-Service Review, Exhibit 26615-X0108, AUC ruling on ATCO Electric motion for confidentiality, January 11, 2022.

breaches would be referred to Enforcement staff. Calgary later filed an application for review and variance of the Commission’s finding that Calgary had disclosed confidential information, including a request that the referral to Enforcement staff be rescinded. Both requests were denied.

6. Enforcement staff and Calgary subsequently engaged in discussions to resolve issues of fact, alleged contraventions and penalty arising from Enforcement staff’s investigation. The result of those discussions was Enforcement staff’s current enforcement application to the Commission, and the associated settlement agreement between Enforcement staff and Calgary. The contravention was described in the enforcement application as follows:

On February 9, 2022 and on March 4, 2022, Calgary disclosed information on the public record of Proceeding 26615 contrary to Section 30.11 of Rule 001: *Rules of Practice* and Form RP5 (confidentiality undertakings) concerning the use and protection of information that had been granted confidential protection pursuant to an AUC order.²

7. In the settlement agreement, Calgary admitted to the above contravention and agreed to the imposition of an administrative penalty of \$5,000 under sections 63(1)(a) and 63(2)(a) of the *Alberta Utilities Commission Act*. The parties submitted that the settlement agreement is in the public interest because it advances the objectives of the Commission’s sanctioning authority, it reflects the seriousness of the contravention, and it gives due regard to mitigating circumstances, including the degree of Calgary’s cooperation during the investigation.

3 Should the Commission approve the application and settlement agreement?

8. The Commission’s jurisdiction to consider and approve this settlement agreement is grounded in the Commission’s general powers in sections 8 and 23(1)(b) of the *Alberta Utilities Commission Act* and the administrative penalty section, Section 63. Based on information provided by the parties in the enforcement application and in the settlement agreement, the Commission accepts that the contravention occurred. The Commission will now consider whether to accept the settlement agreement, as filed.

9. The Commission has consistently applied the “public interest test,” which it has adopted from criminal law, to negotiated settlements in its enforcement proceedings.³ The public interest test in the criminal context requires that “a trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute

² Exhibit 27854-X0003, Submissions on settlement agreement, paragraph 2.

³ See Decision 27013-D01-2022: Enforcement Staff of the Alberta Utilities Commission - Allegations against ATCO Electric Ltd., Proceeding 27013, June 29, 2022, paragraphs 64-68; Decision 3110-D03-2015: Market Surveillance Administrator - Market Surveillance Administrator allegations against TransAlta et al., Phase 2 - request for consent order, Proceeding 3110, October 29, 2015, paragraphs 15-21; and Decision 26379-D02-2021: Enforcement staff of the Alberta Utilities Commission - Allegations against Green Block Mining Corp. (formerly Link Global Technologies Inc.), Westlock Power Plant Phase 1, Proceeding 26379, August 19, 2021, paragraphs 14-15; Decision 27391-D01-2023: Enforcement Staff of the Alberta Utilities Commission, Settlement Agreement with the City of Grande Prairie, Proceeding 27391, January 20, 2023, paragraphs 16-19. See also Bulletin 2016-10, Practices regarding enforcement proceedings and amendments to AUC Rule 001: Rules of Practice, March 29, 2016, paragraph 13, which sets out the obligation for Enforcement staff to safeguard the public interest in pursuing the mandate to bring forward, and in appropriate cases to settle, enforcement proceedings.

or is otherwise contrary to the public interest.”⁴ There is a high threshold for departing from joint submissions (or negotiated settlements in the regulatory context). The rationale for this is explained in significant detail in earlier Commission decisions that decided whether to approve settlement agreements between Enforcement staff and contravening parties.⁵

10. The parties in this case were guided in part by Section 4 of Rule 013: *Criteria Relating to the Imposition of Administrative Penalties* when negotiating the settlement agreement. In assessing the seriousness of the contravention, the parties highlighted the following points:

- The harm caused was the failure to comply with a confidentiality order of the Commission, resulting in the public release of information that the Commission in Proceeding 26615 had determined warranted confidential protection (Section 4(1)).
- The harm was of limited duration, scope and impact. The information was publicly available for less than two hours following both breaches. It is unknown who, if anyone, may have improperly accessed the information from the first breach. Four parties who had not signed confidentiality undertakings accessed the information from the second breach (Section 4(1)).
- The incidents came to light not through any actions of Calgary, but rather when ATCO Electric notified the Commission of the breaches. There was nothing filed on the record in Proceeding 26615 to suggest harm from the public disclosure (Section 4(7)).
- The contravention was a repeat offence and not an isolated incident (sections 4(14) and (15)).
- In its April 25, 2022, ruling (and subsequently in Decision 27403-D01-2022),⁶ the Proceeding 26615 panel determined that some of the previously disclosed information (from the appendix in the first Calgary breach) was not confidential information and could have been disclosed on the public record (Section 4(23)).
- Calgary is funded through Calgary taxpayers and any administrative penalty would be paid for by Calgary taxpayers (Section 4(23)).⁷

11. With respect to mitigation (Section 6 of Rule 013), Enforcement staff considered Calgary’s conduct in respect of both its reaction to misconduct and the extent of cooperation reflected by the whole of the settlement agreement, but most particularly the admitted contravention and agreed-upon administrative penalty, to be important mitigating circumstances in this case. As a result of these circumstances, the parties submitted that respondents in future enforcement proceedings will be incented to take similar steps and cooperate with Enforcement staff.

12. In response to an information request from the Commission, Enforcement Staff and Calgary clarified that Calgary’s position when filing the confidential information was that it was

⁴ *R v Anthony-Cook*, 2016 SCC 43, paragraph 32.

⁵ See footnote 3.

⁶ Decision 27403-D01-2022: City of Calgary, Decision on Application for Review of Ruling on Confidentiality in Proceeding 26615, Proceeding 27403, October 27, 2022.

⁷ Exhibit 27854-X0004, Settlement agreement, paragraph 32.

not confidential. Therefore, the disclosure of confidential information was not inadvertent, and disclosure could not have been prevented by having different protocols in place to protect the confidentiality of the information. On both occasions where confidential information was disclosed by Calgary, the documents were removed from the public record within two hours. There is no evidence before the Commission to indicate that ATCO Electric or ratepayers were harmed by Calgary's disclosures in this case.

13. Having considered the circumstances surrounding the breaches and the agreement reached between the parties, the Commission is satisfied the public interest test is met by approving the settlement agreement.

4 Order

14. It is hereby ordered that:

- (1) The settlement agreement between AUC Enforcement staff and The City of Calgary, attached as [Appendix 2](#) to this decision, is approved, as filed.
- (2) The City of Calgary must pay an administrative penalty in the amount of five-thousand dollars (\$5,000) pursuant to sections 63(1)(a) and 63(2)(a) of the *Alberta Utilities Commission Act*. The payment may be made via cheque or bank draft made out to the General Revenue Fund of Alberta and delivered to the AUC within 30 business days of the date of the order.

Dated on March 14, 2023.

Alberta Utilities Commission

(original signed by)

Renée Marx
Commission Member

Appendix 1 – Proceeding participants

Name of organization (abbreviation) Company name of counsel or representative
Enforcement Staff of the Alberta Utilities Commission

Alberta Utilities Commission
Commission panel R. Marx, Commission Member
Commission staff A. Culos (Commission counsel) B. Edwards

Appendix 2 – Settlement agreement

[\(return to text\)](#)



Appendix 2 -
Settlement agreeme
(consists of 7 pages)

ALBERTA UTILITIES COMMISSION

IN THE MATTER OF the *Alberta Utilities Commission Act*, SA 2007, c A-37.2 and the regulations made thereunder;

AND IN THE MATTER OF the Alberta Utilities Commission Rule 001: *Rules of Practice*;

BETWEEN:

Alberta Utilities Commission Enforcement Staff

Applicant

-and-

The City of Calgary

Respondent

Settlement Agreement

I Introduction and executive summary

1. In May 2022, the Alberta Utilities Commission Enforcement staff (Enforcement staff) commenced an investigation in response to a referral from the AUC panel presiding over Proceeding 26615 (26615 Panel) concerning the 26615 Panel's findings that the City of Calgary (Calgary) breached the 26615 Panel's confidential orders in that proceeding.
2. The investigation confirmed and, for the purposes of this settlement agreement, Calgary admits that it improperly disclosed information on the public record of Proceeding 26615 contrary to Section 30.11 of Rule 001: *Rules of Practice*, and the requirements set out in Form RP5 (confidentiality undertakings) concerning the use and protection of information that had been granted confidential protection pursuant to an AUC order.
3. Enforcement staff and Calgary have entered into a settlement agreement to address the admitted contraventions (Settlement Agreement). Calgary was cooperative, forthright and responsive concerning all aspects of Enforcement staff's investigation. For the reasons set out in further detail below, the Settlement Agreement includes an administrative penalty of \$5,000.
4. Enforcement staff consider that the Settlement Agreement fosters public protection, encourages compliance, serves as a deterrent and is therefore in the public interest. Enforcement staff and Calgary therefore jointly request that the AUC approve the Settlement Agreement without variation.

II Agreed facts

5. The AUC uses an electronic filing tool, known as its eFiling system, to assist with managing and sharing information in its proceedings. This system is used to access, manage, search and upload documents. Documents filed on the public record of a proceeding in eFiling are accessible to any person who has an eFiling system user account. Documents filed on the confidential record of a proceeding in eFiling are only accessible pursuant to the terms of the AUC's confidentiality rulings.
6. On January 11, 2022, the 26615 Panel issued a ruling granting confidential treatment to certain evidence to be filed by ATCO Electric Ltd. in Proceeding 26615. In the ruling, the 26615 Panel directed ATCO Electric to provide interveners access to the confidential information on the confidential record in eFiling provided such parties filed confidentiality undertakings. The confidentiality ruling was filed as Exhibit 26615-X0108 on the public record in Proceeding 26615.
7. Calgary was an intervener in Proceeding 26615. Beginning January 14, 2022, various people participating on behalf of Calgary filed executed confidentiality undertakings and were granted access to ATCO Electric's confidential information filed on the confidential record in Proceeding 26615.
8. On February 9, 2022, Calgary filed a motion on the public record for Proceeding 26615 requesting further and better information request (IR) responses from ATCO Electric. Calgary also filed a separate Appendix A on the public record in support of its motion. The motion was filed as Exhibit 26615-X0259 and Appendix A was filed as Exhibit 26615-X0260. The documents were filed on the public record at 15:41.
9. Shortly thereafter, ATCO Electric contacted AUC staff assigned to Proceeding 26615 concerning the disclosure of information in Appendix A (Exhibit 26615-X0260) on the public record that it contended was confidential. Appendix A (Exhibit 26615-X0260) was voided by the AUC at 17:31 (1 hour, 50 minutes later) from the public record.
10. On February 10, 2022, Calgary refiled its motion (Exhibit 26615-X0264) and a redacted version of Appendix A (Exhibit 26615-X0263) on the public record and an unredacted Appendix A (Exhibit 26615-X0263-C) on the confidential record for Proceeding 26615. In its motion, Calgary advised that it had refiled its motion and Appendix A for regulatory efficiency reasons and reserved the right to make further submissions on "the merits and necessity of ATCO Electric's claims of confidentiality."
11. On February 10, 2022, the 26615 Panel issued a letter on the public record in Proceeding 26615 acknowledging Calgary's refiled motion and directed ATCO Electric and Calgary to add its response and reply, respectively in the refiled Appendix A. The February 10 letter was filed as Exhibit 26615-X0265.
12. On February 14, 2022, ATCO Electric responded to Calgary's motion in the refiled Appendix A. Calgary replied to ATCO Electric's response on Calgary's motion in the refiled Appendix A on February 15, 2022.

13. On February 16, 2022, the 26615 Panel issued a further ruling regarding the confidentiality of other ATCO Electric materials that Calgary proposed to rely on in its evidence to be filed in the proceeding. This ruling was filed on the public record as Exhibit 26615-X0275.

14. On March 4, 2022, Calgary filed the supplemental evidence of Stephens Consulting Ltd. (Stephens evidence). This document was filed on the public record at 15:18 as Exhibit 26615-X0337. Shortly thereafter, ATCO Electric contacted AUC staff assigned to Proceeding 26615 concerning the disclosure of information in the supplemental evidence in Exhibit 26615-X0337 on the public record that it contended was confidential. Exhibit 26615-X0337 was voided by AUC staff at 16:45 (1 hour, 27 minutes later).

15. The unified logging service (ULS) logs in the eFiling system show that Exhibit 26615-X0337 was accessed by three persons who were registered in the proceeding but who had not signed confidentiality undertakings, and by one party registered in a companion proceeding. There was no ULS log available to indicate whether any persons who had not signed a confidentiality undertaking had accessed Exhibit 26615-X0260. Proceeding 26615 counsel contacted counsel for all of these parties and requested that Exhibit 26615-X0337, and if applicable, Exhibit 26615-X0260 be destroyed by their clients.

16. On March 4, 2022, the 26615 Panel issued a letter on the public record noting the disclosure of confidential information on the public record and stated Exhibit 26615-X0260 “contained reference to confidential information or quoted the confidential record.” This letter was filed as Exhibit 26615-X0331.

17. On March 4, 2022, Calgary filed a placeholder for the refiling of the redacted confidential evidence of Stephens Consulting Ltd. on the public record pending resolution between Calgary and ATCO Electric concerning what material should be redacted. The placeholder was filed as Exhibit 26615-X0399 and an unredacted version of the Stephens Evidence was filed on the confidential record as Exhibit 26615-X0399-C.

18. Calgary and ATCO Electric were unable to resolve their differences concerning the information to be redacted. Consequently, on March 11, 2022, Calgary filed a motion regarding the disputed confidential content and asked the 26615 Panel for direction. Calgary also filed a table on the confidential record in support of its request for direction. The motion was filed on the public record as Exhibit 26615-X0340 and the table was filed on the confidential record as Exhibit 26615-X0341-C.

19. On March 17, 2022, the 26615 Panel issued a letter denying ATCO Electric’s request that all information technology (IT) matters be confidential and directed ATCO Electric to file a response to Calgary’s table on the confidential record. The 26615 Panel reiterated its previous confidentiality rulings and applied its prior confidentiality treatment to certain materials from Proceeding 20514. The 26615 Panel’s ruling was filed on the public record as Exhibit 26615-X0356.

20. On March 23, 2022, the 26615 Panel issued another ruling granting confidential treatment concerning additional ATCO Electric materials. This ruling was filed on the public record as Exhibit 26615-X0367.

21. On April 25, 2022, the 26615 Panel issued its ruling in response to Calgary's March 11, 2022 request for direction. The ruling was filed on the public record as Exhibit 26615-X0448.01. A further, detailed ruling was concurrently released on the confidential record as Exhibit 26615-X0447-C. In its April 25, 2022 ruling, the 26615 Panel expressed disappointment with both ATCO Electric and Calgary regarding confidentiality issues, found that Calgary had disclosed confidential information in its February 9 and March 4 public filings, and provided notice to parties this breach would be referred to Enforcement staff.

22. On May 25, 2022, Calgary filed an application with the Commission requesting a review and variance of the Commission's findings that Calgary had disclosed confidential information and that the referral of the 26615 Panel of this matter to Enforcement staff be rescinded. On October 27, 2022, the Commission issued Decision 27403-D01-2022 varying in part, its findings in Exhibit 26615-X0448.01 and Exhibit 26615-X0447-C.¹ However, this variance did not reverse the 26615 Panel's findings in Exhibit 26615-X0331 or the 26615 Panel's other findings of the breach of its confidentiality orders, nor did it rescind the 26615 Panel's referral to Enforcement staff.

23. None of the third parties whose information was the subject of the confidentiality orders sought by ATCO Electric and granted by the 26615 Panel, filed any submission on the record of Proceeding 26615 to identify any harm connected with Calgary's breach.

III Regulatory framework and governing legislation

24. Section 76(1)(e) of Rule 001, authorizes the AUC to make rules of practice regarding its procedure and hearings. The AUC enacted Section 30 of Rule 001 pursuant to this authority.

25. Section 30.7 of Rule 001 enables the AUC to grant a motion for confidential treatment on any terms it considers reasonable or necessary.

26. Section 30.9 of Rule 001 further enables the AUC to establish or adopt any process or procedure considered necessary or reasonable in the public interest to consider the confidential information.

27. In Proceeding 26615, the 26615 Panel directed ATCO Electric to provide access to its confidential information provided the requesting parties executed and filed a confidentiality undertaking as provided for in Section 30.11 of Rule 001 and Form RP5.

28. Form RP5 requires each recipient of confidential information to, *inter alia*, "use all reasonable and necessary efforts to safeguard the confidential information and related materials from any unauthorized disclosure or use" and to "not disclose the confidential information or related materials to any person except to the Commission or to a person who is authorized by the Commission to receive access to the confidential information and who has executed and filed with the Commission an undertaking, unless otherwise required by law."

¹ In Decision 27403-D01-2022: City of Calgary, Decision on Application for Review of Ruling on Confidentiality in Proceeding 26615, October 27, 2022, the Commission varied the 26615 Panel's orders in Exhibit 26615-X0448.01 and Exhibit 26615-X0447-C concerning the disclosure of aggregate termination and transition costs.

IV Admitted contraventions:

29. For the purposes of the Settlement Agreement, Calgary admits and agrees to the following contravention:

- On February 9, 2022 and on March 4, 2022, Calgary disclosed information on the public record of Proceeding 26615 contrary to Section 30.11 of Rule 001: *Rules of Practice* and Form RP5 (confidentiality undertakings) concerning the use and protection of information that had been granted confidential protection pursuant to an AUC order.

V Agreed terms and conditions of settlement

30. Section 63 of the *Alberta Utilities Commission Act* states, *inter alia*, that if the Commission determines in a hearing or other proceeding that a person has contravened or failed to comply with any provision of that act or any other enactment under the jurisdiction of the Commission or any Commission rule, it can impose an administrative penalty and any terms or conditions considered appropriate. The Commission has found that the reference to “other proceeding” includes a settlement process.² The purpose of the Commission’s sanctioning authority is to achieve general and specific deterrence, encourage compliance and protect the public. As well, while sanctions are intended to be protective and preventative, they are not to be punitive.

31. The Commission makes enforcement decisions based on the relevant factors of the case before it and has enacted Rule 013: *Criteria Relating to the Imposition of Administrative Penalties*, to provide guidance when considering the imposition of an administrative penalty under the *Alberta Utilities Commission Act*. Section 4 of Rule 013 lists factors to be considered in determining the seriousness of the offence and Section 6 lists mitigation factors to be considered.

32. Substantively, the contravention admitted to by Calgary concerns the disclosure, on two occasions, of confidential information on the public record of Proceeding 26615 contrary to the 26615 Panel’s confidentiality orders. In assessing the seriousness of the contravention, of the 23 factors listed in Section 4 of Rule 13, the following matters are of note:

- (a) The harm caused was the failure to comply with the 26615 Panel’s confidentiality orders resulting in the public release of information that the 26615 Panel had determined warranted confidential protection (s. 4(1)).
- (b) The harm was of limited duration (s. 4(17)), scope and impact (s. 4(5)). The Calgary documents were publicly available no more than 2 hours. It is unknown who, if anyone, may have improperly accessed the Appendix A information (Exhibit 26615-X0260). It is known that four parties accessed Calgary’s supplemental evidence filed as Exhibit 26615-X0337 (s. 4(1)).

² See for example Decision 23013-D01-2018 (Errata): Market Surveillance Administrator, Application for approval of a settlement agreement between the Market Surveillance Administrator, TransAlta Corporation and Capital Power Generation Services Inc., Proceeding 23013, Application 23013-A001, August 24, 2018, paragraph 20.

- (c) The incidents came to light through the actions of ATCO Electric (s. 4(20)). There are no filings on the Proceeding 26615 record from the parties whose materials were the subject of the confidential orders to indicate harm from the public disclosure (s. 4(7)).
- (d) The contravention was a repeat offence (s. 4(14)) and not an isolated incident in this proceeding (s. 4(15)).
- (e) The 26615 Panel's letters of February 23, 2022 (Exhibit 26615-X0296) and March 4, 2022 (Exhibit 26615-X0331), did not provide an analysis of the redactions that Calgary had voluntarily provided when it resubmitted the redacted Appendix A (formerly the voided Exhibit 26615-X0260). The 26615 Panel provided a detailed ruling of the redactions in Appendix A on April 25, 2022, two months after Exhibit 26615-X0260 had been voided. In its April 25, 2022 ruling (Exhibit 26615-X0447-C), the 26615 Panel determined that some of the previously disclosed information in the voided Appendix A (Exhibit 26615-X0260) was not confidential information and could have been disclosed on the public record. The Commission in Decision 27403-D01-2022, also determined that some of the previously disclosed information that had been determined to be confidential in Exhibit 26615-X0447-C could also have been disclosed on the public record. (s. 4(23)).
- (f) Calgary is funded through Calgary taxpayers and any administrative penalty would be paid for by Calgary taxpayers (s. 4(23)).

33. Many of the other factors enumerated in Section 4 of Rule 013 are not present. For example: there was no loss of life or endangerment of persons, there was no damage to property or the operation of the bulk electric system, it did not involve significant sums of money or material benefit to Calgary, there was no fraudulent conduct or misrepresentation of material facts, Calgary was not reckless or deliberately indifferent nor did it engage in a cover up and Calgary did not resist or ignore Enforcement staff's inquiry into the contraventions.

34. As noted above, Section 6 of Rule 013 details factors to be considered in determining if any mitigation is warranted in the amount of the administrative penalty to be imposed. Many of those factors relate to the presence, strength, integrity and success of an existing compliance system. Section 30.11(a) of Rule 001 requires a party who accesses confidential information to provide a copy of its protocol for the treatment of the confidential documents it receives. Calgary's protocol was submitted as Exhibit 26615-X0128 and the protocol for Stephens Consulting was provided at Exhibit 26615-X0129. The Calgary protocols concern the labelling, storage and later destruction of confidential information. Consequently, in this situation, the protocols would not have addressed the breaches and would not serve to mitigate the seriousness of the contraventions.

35. However, mitigation factors such as the response and cooperation of Calgary when made aware of the contraventions do apply (s. 6(19) - (20)).

36. In the circumstances of this enforcement proceeding, the public interest requires the imposition of an administrative penalty to achieve the objectives of encouraging compliance with AUC orders as well as general and specific deterrence. Pursuant to sections 63(1)(a) and 63(2)(a) of the *Alberta Utilities Commission*, the parties jointly request that the AUC issue an order requiring Calgary to pay an administrative penalty in the amount of \$5,000 payable to the

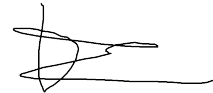
General Revenue Fund of Alberta and delivered to the AUC within 30 business days of the date of the order.

VI General

37. This Settlement Agreement includes facts admitted for the purpose of dispensing with formal proof thereof. Calgary’s agreement to the terms of this Settlement Agreement does not constitute an admission as to the facts or findings in any other civil or criminal proceedings.

38. Subject to the Commission’s approval of this Settlement Agreement, execution and fulfillment of the terms of this Settlement Agreement by Calgary resolves all issues involving Calgary relating to the conduct described above and Enforcement staff will take no further steps against Calgary arising from these facts.

AGREED TO THIS 6TH DAY OF DECEMBER, 2022



Douglas I. Evanchuk,
Counsel for the City of Calgary

AGREED TO THIS 6TH DAY OF DECEMBER, 2022

Catherine M. Wall
Counsel, Enforcement Staff
Alberta Utilities Commission