



**FortisAlberta Inc.**

**Inter-Affiliate Code of Conduct Compliance  
Plan - Extension to Communication  
and Training Exemption**

**March 22, 2023**

**Alberta Utilities Commission**

Decision 27887-D01-2023

FortisAlberta Inc.

Inter-Affiliate Code of Conduct Compliance

Plan - Extension to Communication

and Training Exemption

Proceeding 27887

Application 27887-A001

March 22, 2023

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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)

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## **1 Introduction**

1. In this decision, the Alberta Utilities Commission has approved the application of FortisAlberta Inc. for an extension to the conditional exemption, granted in Decision 23089-D01-2018,<sup>1</sup> from Section 7.2 of the FortisAlberta Inc *Inter-Affiliate Code of Conduct Compliance Plan* (Compliance Plan).
2. On December 16, 2022, FortisAlberta filed its application, requesting that the Commission extend the exemption granted in Decision 23089-D01-2018, as it was set to expire on December 31, 2022.
3. The Commission issued notice of the proceeding on January 18, 2023, requesting that all statements of intent to participate were submitted by February 1, 2023. No statements of intent to participate were received.
4. The Commission issued information requests to FortisAlberta on March 6, 2023, with FortisAlberta providing its responses on March 13, 2023. The Commission considers that the record for this proceeding closed on March 13, 2023.
5. The Commission reviewed the entire record for this proceeding in coming to this decision; lack of reference to a matter addressed in evidence or argument does not mean that it was not considered.

## **2 Background**

6. FortisAlberta is required to apply its inter-affiliate code of conduct when conducting inter-affiliate transactions. Primarily, the code of conduct is meant to prevent the occurrence of both cross-subsidization between FortisAlberta and its regulated and unregulated affiliates, and other circumstances that could cause harm to customers. FortisAlberta's code of conduct requires that it develop and implement a plan for compliance with the code of conduct's provisions.

7. Section 7.2 of the Compliance Plan states the following:

### **7.2. Communication of Code and Compliance Plan**

FortisAlberta will communicate the contents of the Code and the Compliance Plan, and any modification to it from time to time, to each of its directors, officers, employees,

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<sup>1</sup> Decision 23089-D01-2018: FortisAlberta Inc., Inter-Affiliate Code of Conduct – Communication and Training Exemption, Proceeding 23089, Application 23089-A001, July 12, 2018.

consultants, contractors, agents and Affiliates, and make the Code and Compliance Plan available on FortisAlberta's website.

8. In Decision 2006-012,<sup>2</sup> the Commission's predecessor, the Alberta Energy and Utilities Board (EUB), approved FortisAlberta's current Compliance Plan and provided FortisAlberta with a conditional exemption<sup>3</sup> from the requirement of Section 7.2 to communicate the contents to all employees and contractors. The exemption allowed FortisAlberta to train only employees and contractors with "meaningful involvement" in inter-affiliate transactions.<sup>4</sup>

9. In Decision 23089-D01-2018, the Commission confirmed that the conditional exemption would remain in place until December 31, 2022, subject to several further conditions.

### **3 Issues**

#### **3.1 Criteria for determining exempt employees**

10. In Decision 23089-D01-2018, the Commission ordered FortisAlberta to establish formal criteria to guide executives in charge of each area to determine which employees have a "meaningful involvement" in inter-affiliate transactions and require training under Section 7.2 of the Compliance Plan.

11. In response, FortisAlberta filed a letter<sup>5</sup> which outlined its formal criteria to require all members of its executive team and certain employees, including all employees at the director level, employees of the customer care centre and the business development function, and employees involved in major transactions, to complete inter-affiliate code of conduct training. Additionally, finance employees, shared resources employees, employees responsible for sharing assets or equipment with or from an affiliate, employees responsible for any shared services from or to an affiliate, and employees who provide emergency services to FortisAlberta's parent company or affiliates are required to undergo the training.

12. The criteria set out above were approved by the Commission in a compliance letter on Proceeding 23089.<sup>6</sup>

13. Following this approval, FortisAlberta conducted a review of all employees to identify the employees who fit within the Commission-approved criteria to ensure that appropriate

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<sup>2</sup> Decision 2006-012: FortisAlberta Inc., Inter-Affiliate Code of Conduct Compliance Plan, Proceeding 14540, Application 1389035, February 21, 2006.

<sup>3</sup> The exemption was conditional upon the following:

1. That each FortisAlberta executive in charge of each area that deals with inter-affiliate transactions provide an annual, written, signed certification to the Compliance Officer, indicating each of the employees in their area that handles such transactions;
2. That the certification be updated quarterly if related employees or their duties change during the quarter; and
3. That the certifications be kept on file by the Compliance Officer for six years.

<sup>4</sup> Decision 2006-012 also specified that this exemption only applied when the anticipated annual value of inter-affiliate transactions did not exceed a prescribed amount. This threshold was increased in decisions 2012-072 and 20263-D01-2015, and was ultimately removed through Decision 23089-D01-2018 in the interests of regulatory efficiency.

<sup>5</sup> Proceeding 23089, 2018-09-28 FortisAlberta Post Disposition Documentation Inter-Affiliate Training Exemption, September 28, 2018.

<sup>6</sup> Proceeding 23089, Compliance Letter - Direction 23089-D01-2018-0001, October 24, 2018.

employees are provided with the required training, to maintain compliance with the Compliance Plan. As a result of this review, the number of employees who received inter-affiliate training was reduced from 300 in 2020, to 86 in 2021.

14. Notwithstanding the reduction in the number of employees trained, evidence provided by FortisAlberta in this proceeding indicates that personnel in key roles continue to receive training in accordance with its Compliance Plan.

### **3.2 Reporting requirements**

15. As part of the exemption received in Decision 23089-D01-2018, the Commission directed FortisAlberta to include the number of employees and contractors who have received training under Section 7.2 of the Compliance Plan in its *Inter-Affiliate Code of Conduct Annual Compliance Report*.

16. The Commission found that FortisAlberta did not satisfy the condition to include the number of employees and contractors who have received Section 7.2 training in the 2020 and 2021 annual reports that it filed with the Commission.

17. These instances of non-compliance were self-reported on November 15, 2022, by FortisAlberta to the Commission's Market Oversight and Enforcement Division. The Commission deems the omission of information from the annual reports, regarding the number of employees and contractors trained, to be inadvertent and is satisfied that appropriate corrective action has been taken to avoid the possibility of this omission in the future.

### **3.3 Is it reasonable and appropriate to continue the exemption**

18. In its application, FortisAlberta stated that the circumstances which were in place at the time of Decision 23089-D01-2018 remain the same. It also confirmed that employees and contractors with "meaningful involvement" in inter-affiliate transactions are being trained on an annual basis and will continue to receive the training.

19. FortisAlberta further stated that it continues to operate independently of its utility affiliates, all of which conduct business outside of Alberta. All inter-affiliate transactions and compliance certifications are and will continue to be submitted to the Commission as part of FortisAlberta's *Inter-Affiliate Code of Conduct Annual Compliance Report*.

20. Further, FortisAlberta confirmed that it does not anticipate any changes, in the foreseeable future, to the nature of the services and resources that it exchanges with its affiliates.

21. Considering the Government of Alberta's Red Tape Reduction Initiative, and the financial burden imposed by Section 7.2 that would ultimately be borne by ratepayers, FortisAlberta submitted that it was reasonable and appropriate to continue the exemption.

### 3.4 Conclusion

22. Based on the above, the Commission will extend FortisAlberta's exemption from Section 7.2 of its Compliance Plan, subject to the following directions:

- (a) FortisAlberta is required to include the number of employees and contractors who have received training under Section 7.2 of the Compliance Plan, in its *Inter-Affiliate Code of Conduct Annual Compliance Report*. This information should be in table format.
- (b) If FortisAlberta acquires or creates an Alberta affiliate, it must immediately apply to the Commission for a review of its conditional exemption from Section 7.2 of the Compliance Plan, at which point the Commission will decide whether FortisAlberta may continue to benefit from the exemption. Similarly, if there are any changes to FortisAlberta that could materially affect the nature of inter-affiliate transactions, FortisAlberta must immediately apply to the Commission for review of its conditional exemption.

23. This conditional approval is in force until such time as FortisAlberta is required, by the terms outlined in this decision, to apply for a review of the exemption. At the time of any future rebasing or should any reopener provision be triggered under any performance-based regulation plan, the Commission will consider all contributing factors, including inter-affiliate costs.

### 4 Order

24. It is hereby ordered that:

- (1) The Commission approves FortisAlberta's request for an extension to its exemption from Section 7.2 of the FortisAlberta Inc. *Inter-Affiliate Code of Conduct Compliance Plan*, subject to the findings and directions in this decision, effective as of January 1, 2023.

Dated on March 22, 2023.

### Alberta Utilities Commission

*(original signed by)*

Fino Tiberi  
Executive Director, Market Oversight and Enforcement Division  
On behalf of the Alberta Utilities Commission