



**Enforcement staff of the  
Alberta Utilities Commission**

**Allegations against Energy Sustain Service Ltd. and  
Zong Tang, Phase 1**

**December 12, 2023**

**Alberta Utilities Commission**

Decision 28170-D01-2023

Enforcement staff of the Alberta Utilities Commission

Allegations against Energy Sustain Service Ltd. and Zong Tang, Phase 1

Proceeding 28170

Application 28170-A001

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## **1 Decision summary**

1. The Alberta Utilities Commission finds that Energy Sustain Service Ltd. (ESS) contravened Section 11 the *Hydro and Electric Energy Act* by operating a power plant (the power plant) without an approval from the Commission. The Commission does not find that Zong Tang contravened Section 11 the *Hydro and Electric Energy Act*.
2. The Commission does not find that a contravention of Section 1.3 of Rule 012: *Noise Control* occurred.
3. On receipt of an application from the Alberta Utilities Commission Enforcement staff (Enforcement staff), the Commission will conduct a second phase of this proceeding to consider sanctions for ESS's contravention of Section 11 of the *Hydro and Electric Energy Act*.

## **2 Introduction**

4. Enforcement staff, an independent division of the Commission, filed an application alleging two contraventions by ESS and Z. Tang (the Respondents):<sup>1</sup>
  - (a) The Respondents operated the power plant from February 15, 2022 until May 31, 2022, without an approval from the Commission contrary to the *Hydro and Electric Energy Act* and Rule 007: *Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments* [sic]. **(Contravention 1)**
  - (b) The power plant operations exceeded the permissible sound levels specified in Rule 012: *Noise Control*. **(Contravention 2)**
5. The application followed an investigation carried out by Enforcement staff. The investigation by Enforcement staff was prompted by the receipt of a noise complaint, dated March 8, 2022. Based on the information obtained in the investigation, Enforcement staff filed its application with the Commission on April 26, 2023. Enforcement staff requested that the Commission commence a Phase 1 enforcement proceeding and, if the alleged contraventions were demonstrated, accept further submissions as part of a Phase 2 proceeding to consider the appropriate relief.
6. On July 12, 2023, the Commission issued notice that it would commence a proceeding to consider the alleged contraventions.<sup>2</sup> The Commission also explained that the proceeding may

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<sup>1</sup> Exhibit 28170-X0002, Application by AUC Enforcement staff re ESS, PDF page 3, paragraph 3.

<sup>2</sup> Exhibit 28170-X0020, Notice of enforcement proceeding.

require two phases. In the first phase, Enforcement staff have the burden of proving the allegations set out their application on a balance of probabilities. In the second phase, which will only be required if the allegations made by Enforcement staff are proven in the first phase, the Commission will determine the appropriate remedy for the alleged misconduct established in the first phase, which may include the imposition of penalties or other orders the Commission deems necessary.

### **3 Legislative and evidentiary framework**

7. In this section, the Commission provides background on the legal principles applicable to enforcement proceedings. First, the Commission explains its role when considering an application brought by Enforcement staff. Second, the Commission sets out the applicable standard and burden of proof. Third, the Commission describes how it considers and weighs evidence. Fourth, the Commission comments on the availability of defences to regulatory contraventions in the circumstances of this proceeding.

#### **3.1 Role of the Commission**

8. The Commission is an independent, quasi-judicial agency of the province of Alberta. The Commission's powers are given to it by the provincial legislature and set out in legislation. As a quasi-judicial agency, the Commission is similar in many ways to a court when it holds hearings and makes decisions. Like a court, the Commission bases its decisions on the evidence before it and allows interested parties to cross-examine each other's witnesses to test the evidence as well as provide argument.

9. The purpose of this enforcement proceeding is to determine whether Enforcement staff have demonstrated that the Respondents committed the alleged contraventions. In determining whether the Respondents committed the alleged contraventions, like a court, the Commission acts as an impartial adjudicator of Enforcement staff's application.

#### **3.2 Standard and burden of proof**

10. The Commission has consistently held that the standard of proof in proceedings before it, including proceedings initiated by Enforcement staff, is proof on a balance of probabilities.<sup>3</sup> This means that the decision-maker must determine whether it is more likely than not that an alleged event occurred.<sup>4</sup>

11. In an enforcement proceeding, Enforcement staff has the burden of demonstrating on a balance of probabilities, that the alleged contraventions occurred. If Enforcement staff does not meet its burden, the case will fail.<sup>5</sup> If an alleged contravention is proven, for those contraventions to which the defence of due diligence applies, the alleged contraveners will have the opportunity to demonstrate, on a balance of probabilities, that it has met the defence of due diligence.

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<sup>3</sup> See for example, Decision 28021-D01-2023, Enforcement Staff of the Alberta Utilities Commission, Phase 1 Enforcement Proceeding with Salt Box Coulee Water Supply Company Ltd., August 15, 2023. See also, Decision 3110-D01-2015, Market Surveillance Administrator, Market Surveillance Administrator allegations against TransAlta Corporation et al., Mr. Nathan Kaiser and Mr. Scott Connelly, Phase 1, July 27, 2015; Decision 24752-D01-2020, Direct Energy Regulated Services, Dispute of Specified Penalties, Proceeding 24752, January 8, 2020.

<sup>4</sup> See *FH v McDougall*, 2008 SCC 53 at paragraph 49.

<sup>5</sup> See for example, *R v Cook*, [1997] 1 SCR 1113 at paragraphs 30-31.

The evidence relied upon by all of the parties must be clear, convincing and cogent to satisfy the burden imposed. The Commission's job is to scrutinize with care all of the evidence filed when making its decision.<sup>6</sup>

### 3.3 Assessment of evidence

12. The Commission is not bound by the rules of evidence in its proceedings.<sup>7</sup> While this provides the Commission with flexibility to determine admissibility and weight of evidence, the Commission cannot ignore the principles that underlie the formal rules of evidence.<sup>8</sup>

13. In the following sections, the Commission will set out its general approach to certain evidentiary issues that arose in the course of this proceeding. First, the Commission will discuss the expert evidence tendered in this proceeding. Next, the Commission will discuss the treatment of hearsay and unsworn evidence.

#### 3.3.1 Expert evidence

14. If a matter requires special knowledge or skill to form opinions based on the facts, a witness with sufficient expertise may be allowed to provide that opinion based on their level of expertise, if certain criteria are satisfied.<sup>9</sup> With respect to the level of expertise required, the decision-maker must be satisfied the person has a sufficient degree of expertise to provide the opinion, but there is no minimum degree of formal training required. Any deficiencies in expertise beyond that, go to the weight to be afforded to the evidence, not its admissibility.<sup>10</sup>

15. Enforcement staff filed two reports prepared by Michel Freitas of Motive Acoustics Inc.<sup>11</sup> Both of these reports contain an identical section entitled, "Acoustical Practitioner's Information," which states:

Mr. Freitas is an accomplished acoustician with extensive experience in Conventional and Renewable Power Generation, Transmission and Distribution, Oil & Gas Upstream, Midstream and Downstream, Manufacturing, Food Processing, and Mining projects. He has managed and designed noise and vibration mitigation for thousands of facilities in USA, Canada, South America and Oceania.<sup>12</sup>

16. The Commission accepts this description and is satisfied that M. Freitas has sufficient acoustical expertise and knowledge such that he is capable of preparing assessments, surveys and reports in accordance with Rule 012.<sup>13</sup> Further, the Commission notes that it has relied on noise reports prepared in accordance with Rule 012 by M. Freitas in many other proceedings.<sup>14</sup>

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<sup>6</sup> See *FH v McDougall*, 2008 SCC 53 at paragraphs 45-46.

<sup>7</sup> *Alberta Utilities Commission Act*, Section 20.

<sup>8</sup> Decision 2011-436: AltaLink Management Ltd. and EPCOR Distribution & Transmission Inc. - Heartland Transmission Project, Application 1606609, Proceeding 457, November 1, 2011, paragraph 92.

<sup>9</sup> *White Burgess* at paragraphs 15, 22-25.

<sup>10</sup> *R v Marquard*, [1993] 4 SCR 223 at 243.

<sup>11</sup> Exhibit 28170-X0008, Appendix F - March 25 2022 noise impact assessment report; Exhibit 28170-X0010, Appendix H - April 8 2022 Noise Complaint Investigation.

<sup>12</sup> Exhibit 28170-X0008, Appendix F - March 25 2022 noise impact assessment report, PDF page 19; Exhibit 28170-X0010, Appendix H - April 8 2022 Noise Complaint Investigation, PDF page 37.

<sup>13</sup> See Rule 012: *Noise Control*, PDF page 38.

<sup>14</sup> See for example Proceeding 28323, ATCO Electric Ltd., Hotchkiss 788S Substation Alteration; ATCO Electric Ltd., Nevis 766S Substation Alteration; Proceeding 433, Breaker Energy Ltd., Gas-Driven Generator to Power Oil Battery Site.

17. The Commission notes that while it is satisfied that the expert in this proceeding has sufficient expertise, it would have benefitted from a submission from Enforcement staff on this point.<sup>15</sup> Enforcement staff did not file a curriculum vitae for M. Freitas, nor did they make any submissions concerning M. Freitas's expertise. Enforcement staff did not call M. Freitas to give evidence, either by affidavit or orally in the hearing. The Commission acknowledges that Enforcement staff has the discretion to present its case the way it sees fit, but reiterates that Enforcement staff bears the burden to present sufficient evidence to prove their case on a balance of probabilities.

### 3.3.2 Hearsay and unsworn evidence

18. As noted above, the Commission is not bound in the conduct of its hearings by the rules of law concerning evidence that are applicable to judicial proceedings.<sup>16</sup> This does not mean that the Commission will not consider the admissibility of evidence, nor that it will ignore the rules of evidence entirely.<sup>17</sup> This does mean that the Commission is relieved from strict compliance with the rules of evidence which might otherwise impact its ability to admit hearsay and unsworn evidence. This flexibility allows the Commission to efficiently and effectively conduct its proceedings.<sup>18</sup>

19. In this proceeding, Enforcement staff has relied on a significant amount of untested, unsworn, third-party documentary evidence. The Commission routinely admits hearsay and unsworn evidence.<sup>19</sup> The weight that will be accorded to the hearsay or unsworn evidence is dependent on the extent to which parties have had an opportunity to test and to refute evidence that is adverse to the party's position.<sup>20</sup> In the absence of evidence to the contrary or some other compelling reason to do so, the Commission will generally not discount the hearsay or unsworn evidence.<sup>21</sup>

### 3.4 Availability of the defence of due diligence

20. The issue of availability of defences to regulatory contraventions in enforcement proceedings brought before the Commission by Enforcement staff has not yet been addressed by the Commission. The Commission has, however, provided guidance on the availability of defences in the context of enforcement proceedings brought before the Commission by the Market Surveillance Administrator (MSA). While the scope of matters investigated and enforced by the Enforcement staff and the MSA is different, the administrative penalties and offences scheme set out in Part 6 of the *Alberta Utilities Commission Act* applies in both contexts.

21. In an MSA proceeding, the Commission's practice is to operate under the guidance of the framework in *R v City of Sault Ste. Marie*<sup>22</sup> (*Sault Ste. Marie*) as it relates to the availability of defences; this means that where the Commission finds that a contravention should be categorized as strict liability, the alleged contravener has the opportunity to invoke the due diligence

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<sup>15</sup> See for example sections 20 and 21 of Rule 001: *Rules of Practice*.

<sup>16</sup> *Alberta Utilities Commission Act*, Section 20.

<sup>17</sup> See *Lavallee v Alberta (Securities Commission)*, 2010 ABCA 48 at paragraphs 14, 16.

<sup>18</sup> See *Lavallee v Alberta (Securities Commission)*, 2010 ABCA 48 at paragraph 16.

<sup>19</sup> Additionally, in Bulletin 2020-27, the Commission suspended the requirement for forms and documents filed with the Commission that would normally contemplate the party executing it before a commissioner for oaths or notary public, to be commissioned or notarized.

<sup>20</sup> See Bulletin 2010-17, PDF page 13, paragraph 83.

<sup>21</sup> See for example, Decision 24176-D01-2020 at paragraph 81.

<sup>22</sup> [1978] 2 SCR 1299.

defence.<sup>23</sup> Where the defence of due diligence is available, the alleged contravener may avoid liability by proving that they had a reasonable belief in mistaken facts which, if true, would render the contraventions innocent, or took all reasonable steps to avoid the contraventions.<sup>24</sup>

22. In this proceeding, while the Commission acknowledges that the Respondents did not use the specific legal terminology associated with the due diligence defence, it notes that they were self-represented in this proceeding, and considers that in substance, it was clear on the face of their submissions that the Respondents invoked it.<sup>25</sup> The Commission also considers that Enforcement staff had an adequate opportunity to respond to the Respondent's submissions concerning the efforts the Respondents made to comply with the applicable regulations and standards, and that Enforcement staff did so respond.<sup>26</sup> Enforcement staff did not argue that the defence of due diligence was unavailable. Given the above, the Commission has proceeded in this decision on the basis that the alleged contraventions are strict liability matters, for which a defence of due diligence is available.

23. The Commission wishes to emphasize, however, that it has not had the benefit of argument on the availability of the defence of due diligence in enforcement matters pursued by Enforcement staff, and therefore the appropriateness of proceeding on the basis of the *Sault Ste. Marie* framework and the associated defence of due diligence may be raised in a future proceeding.

#### 4 Summary of facts

24. ESS is an active, registered, Alberta business corporation. Z. Tang is the sole director and shareholder of ESS.<sup>27</sup> In addition to running the power plant, ESS conducts some consulting services.<sup>28</sup>

25. Between February 15, 2022, and May 31, 2022, a gas-powered generator (the power plant) with a nameplate capacity of 1.475 megawatts (MW) operated in Brazeau County at Legal Subdivision 14, Section 7, Township 50, Range 8, west of the Fifth Meridian (the site).<sup>29</sup>

26. Response Energy Corporation operates a well that is located at the site (the well). The well produces oil and natural gas. The well started producing in 2004, but was suspended in June 2017 as the gas pipeline system that the well was tied into permanently discontinued operations. As Response Energy can no longer access markets for the produced natural gas, the gas is now considered a waste product. Response Energy wanted to avoid flaring or venting the

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<sup>23</sup> See Decision 3110-D01-2015, Market Surveillance Administrator, Market Surveillance Administrator allegations against TransAlta Corporation et al., Mr. Nathan Kaiser and Mr. Scott Connelly, Phase 1, July 27, 2015. See also Bulletin 2010-17, PDF pages 5-7; paragraphs 36-48.

<sup>24</sup> *R v City of Sault Ste. Marie*, [1978] 2 SCR 1299 at 1326.

<sup>25</sup> See Exhibit 28170-X0022, ESS Statement of intent participate.

<sup>26</sup> See Exhibit 28170-X0024, 2023-08-11 Enforcement Response to ESS.

<sup>27</sup> Exhibit 28170-X0003, Appendix A - Energy Sustain Service-corporate registry.

<sup>28</sup> Transcript, Volume 1, PDF page 49. See also Transcript, Volume 1, PDF page 52.

<sup>29</sup> See Exhibit 28170-X0005, Appendix C - Fuel Gas to Power Generation Agreement; Exhibit 28170-X0008, Appendix F - March 25 2022 noise impact assessment report; Exhibit 28170-X0009, Appendix G - Response Energy letter May 30 2022; Exhibit 28170-X0010, Appendix H - April 8 2022 Noise Complaint Investigation; Exhibit 28170-0011, Appendix I - Response Energy letter March 29 2022; Exhibit 28170-X0022, ESS Statement of intent participate.



produced natural gas, therefore, if the gas is not productively utilized on site, the well would remain non-productive.<sup>30</sup>

27. On February 1, 2022, Response Energy and ESS entered into a contract pursuant to which Response Energy sold ESS the gas produced by the well in order to fuel the power plant. The contract further provided that ESS would supply Response Energy with some of the electricity generated by the power plant, and designated how various costs and responsibilities at the site would be split between Response Energy and ESS.<sup>31</sup> In accordance with the contract, ESS paid for the costs of renting the power plant and a portion of the costs related to the shared contract operator for the site.<sup>32</sup>

28. Prior to the start of power plant operations, Response Energy and ESS collaboratively took steps to attempt to ensure regulatory compliance for both the well and the power plant.<sup>33</sup> Response Energy consulted with landowners and residents located within 500 metres of the power plant, and with Brazeau County, and provided notification packages to landowners and residents within 1,500 metres of the power plant.<sup>34</sup> Response Energy and ESS also (i) prepared a comparative noise example and satisfied themselves that the study showed that noise levels from the power plant would be within the nighttime permissible sound level (PSL); (ii) implemented noise mitigation measures such as straw bales; (iii) assessed the potential emissions from the power plant operations and satisfied themselves that emissions from operations at the site would comply with regulatory standards; and (iv) assessed the potential incremental environmental impacts of the power plant and satisfied themselves, given that the power plant would be located on an existing oil lease and that containment measures to mitigate the risk of leaks migrating into the soil were implemented, that the power plant would have a minimal impact on the environment.<sup>35</sup>

29. Response Energy and ESS believed that there was no requirement to obtain Commission approval to construct and operate the power plant.<sup>36</sup> The power plant began operating on February 15, 2022.<sup>37</sup>

30. ESS provided energy generated by the power plant to Response Energy and to Z. Tang.<sup>38</sup> Response Energy used the electricity it received from the power plant to power an electric-drive compressor that provides gas lift to recover oil and hydrocarbon liquids from the well, replacing the need for a pumpjack.<sup>39</sup> The remaining electricity generated from the power plant was used to

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<sup>30</sup> Exhibit 28170-X0009, Appendix G - Response Energy letter May 30 2022; Exhibit 28170-X0012, Appendix J - Response Energy letter July 20 2022. See also Transcript, Volume 1, PDF page 32.

<sup>31</sup> Exhibit 28170-X0005, Appendix C - Fuel Gas to Power Generation Agreement. See also Exhibit 28170-X0012, Appendix J - Response Energy letter July 20 2022; Exhibit 28170-X0022, ESS Statement of intent participate.

<sup>32</sup> See Transcript, Volume 1, PDF pages 43-46.

<sup>33</sup> Exhibit 28170-X0022, ESS Statement of intent participate; Transcript, Volume 1, PDF pages 32-34.

<sup>34</sup> Exhibit 28170-X0006.01, Appendix D - Response Energy's participant involvement program line list; Exhibit 28170-0011, Appendix I - Response Energy letter March 29 2022.

<sup>35</sup> Exhibit 28170-X0009, Appendix G - Response Energy letter May 30 2022; Exhibit 28170-0011, Appendix I - Response Energy letter March 29 2022; Exhibit 28170-X0022, ESS Statement of intent participate; Transcript, Volume 1, PDF pages 32-34.

<sup>36</sup> Exhibit 28170-X0009, Appendix G - Response Energy letter May 30 2022; Exhibit 28170-0011, Appendix I - Response Energy letter March 29 2022; Exhibit 28170-X0022, ESS Statement of intent participate; Transcript, Volume 1, PDF pages 32-33.

<sup>37</sup> Exhibit 28170-0011, Appendix I - Response Energy letter March 29 2022.

<sup>38</sup> Transcript, Volume 1, PDF pages 52-53.

<sup>39</sup> Exhibit 28170-0011, Appendix I - Response Energy letter March 29 2022; Exhibit 28170-X0012, Appendix J - Response Energy letter July 20 2022.

run 87 cryptocurrency mining machines (the crypto-mining facility) that are also located at the site.<sup>40</sup> The crypto-mining facility is owned and operated by Z. Tang.<sup>41</sup>

31. Response Energy does not have any ownership stake in ESS, in the power plant, or in the crypto-mining facility. It does not receive any revenue from ESS's power generation operations or from Z. Tang's cryptocurrency mining operations.<sup>42</sup> Neither ESS nor Z. Tang have any ownership in Response Energy.<sup>43</sup> There is no overarching corporate structure that connects Response Energy and ESS.<sup>44</sup>

32. On February 15, 2022, Response Energy was informed that a local landowner had expressed concerns about the loud noise level coming from the site. On that same day, straw bales were set up at the site in order to mitigate the noise impacts on the landowner. A representative of Response Energy met with the landowner to assess whether the mitigation measures lessened the noise level at their property. The noise level appeared to have lessened.<sup>45</sup>

33. On March 8, 2022, Enforcement staff received a noise complaint (the complaint) from residents located approximately 400 metres from the power plant (the complainants).<sup>46</sup> The complainants acknowledged that they had been notified of the proposed power plant and the reactivation of the well by Response Energy, but explained that they had been unaware of the crypto-mining facility. The complainants described that they began hearing loud noise from the site on February 21, 2022, which they stated was the date that the crypto-mining facility began operating. The complainants contacted Response Energy concerning the noise. By March 1, 2022, Response Energy had set up straw bales to attempt to mitigate the noise. However, the complainants stated that, while the noise was reduced, they continued to hear constant noise that they characterized as from a gas-fuelled generator and cooling fans running a crypto-mining operation at the site.<sup>47</sup>

34. Based on the information in the complaint, Enforcement staff believed that Response Energy ran the power plant and was responsible for the site.<sup>48</sup> Enforcement staff continued to believe that Response Energy owned, operated, or was responsible for the power plant until July 20, 2022, when it first became aware of ESS's involvement with the power plant.<sup>49</sup>

35. On March 19, 2022, Enforcement staff informed Response Energy of their investigation and requested that Response Energy conduct a comprehensive sound level (CSL) survey to address

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<sup>40</sup> Exhibit 28170-X0004, Appendix B - ESS email response to Enforcement Jul 28 and Aug 15 2022 attachments removed. See also Exhibit 28170-0011, Appendix I - Response Energy letter March 29 2022; Exhibit 28170-X0012, Appendix J - Response Energy letter July 20 2022; Exhibit 28170-X0022, ESS Statement of intent participate.

<sup>41</sup> Exhibit 28170-X0022, ESS Statement of intent participate; Transcript, Volume 1, PDF page 48.

<sup>42</sup> Exhibit 28170-X0012, Appendix J - Response Energy letter July 20 2022.

<sup>43</sup> Transcript, Volume 1, PDF page 52.

<sup>44</sup> Transcript, Volume 1, PDF pages 31-32. See also Transcript, Volume 1, PDF page 33.

<sup>45</sup> Exhibit 28170-X0006.01, Appendix D - Response Energy's participant involvement program line list.

<sup>46</sup> Exhibit 28170-X0007, Appendix E - Complaint form submitted on March 8 2022; Transcript, Volume 1, PDF page 16. See also Exhibit 28170-X0010, Appendix H - April 8 2022 Noise Complaint Investigation.

<sup>47</sup> Exhibit 28170-X0007, Appendix E - Complaint form submitted on March 8 2022. See also Exhibit 28170-X0006.01, Appendix D - Response Energy's participant involvement program line list.

<sup>48</sup> Transcript, Volume 1, PDF page 17.

<sup>49</sup> Transcript, Volume 1, PDF pages 18-19, 22-23.

the noise complaint received concerning the power plant.<sup>50</sup> On the same day, Response Energy contacted certain local landowners to inform them of the concerns regarding noise, to explain Response Energy's efforts to monitor and address the issue, and to request permission to set up noise monitoring equipment on their property.<sup>51</sup> Response Energy retained M. Freitas of Motive Acoustics Inc. to conduct the CSL survey and prepare the noise complaint investigation (NCI) report, and to prepare a noise impact assessment (NIA). The CSL survey was conducted from March 19 to March 27, 2022, and the NCI report was completed on April 8, 2022.<sup>52</sup> The NIA data was collected on March 19, 2022, and the NIA was completed on March 25, 2022.<sup>53</sup>

36. During the CSL survey, noise levels were measured at two residences near the site, one approximately 200 metres from the site (residence R01) and one approximately 400 metres away (residence R02). In the NCI report, M. Freitas determined that noise from the equipment at the site exceeded the PSL at residence R01 on the night of March 20 to 21, 2022. On March 25, 2022, Response Energy modified the layout of the straw bales in order to reduce the noise impact of the equipment at the site on the residences. M. Freitas determined that, according to the measurements recorded after these modifications were made, noise from the equipment at the site did not exceed the PSL at either residence and the noise level was within the PSL specified in Rule 012.<sup>54</sup> The positions of the straw bales were readjusted on March 27, 2022, in order to further mitigate the noise impacts of the equipment at the site.<sup>55</sup>

37. On May 31, 2022, Response Energy shut-in the well at Enforcement Staff's request.<sup>56</sup> The power plant ceased operations on the same day.<sup>57</sup> Enforcement staff stated that the power plant was voluntarily shut down at their request.<sup>58</sup>

38. On July 21, 2022, Enforcement staff notified ESS that they were conducting an investigation in response to a noise complaint, and informed ESS that they believed that ESS had committed two contraventions.<sup>59</sup> After having several phone conversations with Enforcement staff, ESS came to believe that it had made a mistake in its determination of the capacity of the power plant as the result of incorrectly interpreting the meaning of a small power plant for the purposes of Rule 007.<sup>60</sup>

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<sup>50</sup> Transcript, Volume 1, PDF pages 17-18; Exhibit 28170-X0002, Application by AUC Enforcement staff re ESS, PDF page 6, paragraph 20.

<sup>51</sup> Exhibit 28170-X0006.01, Appendix D - Response Energy's participant involvement program line list.

<sup>52</sup> Exhibit 28170-X0009, Appendix G - Response Energy letter May 30 2022; Exhibit 28170-X0010, Appendix H - April 8 2022 Noise Complaint Investigation.

<sup>53</sup> Exhibit 28170-X0008, Appendix F - March 25 2022 noise impact assessment report.

<sup>54</sup> Appendix H - April 8 2022 Noise Complaint Investigation. See also Exhibit 28170-X0006.01, Appendix D - Response Energy's participant involvement program line list; Exhibit 28170-X0009, Appendix G - Response Energy letter May 30 2022.

<sup>55</sup> Exhibit 28170-X0006.01, Appendix D - Response Energy's participant involvement program line list.

<sup>56</sup> Exhibit 28170-X0012, Appendix J - Response Energy letter July 20 2022.

<sup>57</sup> See Transcript, Volume 1, PDF page 51.

<sup>58</sup> Exhibit 28170-X0002, Application by AUC Enforcement staff re ESS, PDF page 6, paragraph 26.

<sup>59</sup> Exhibit 28170-X0004, Appendix B - ESS email response to Enforcement Jul 28 and Aug 15 2022 attachments removed; Transcript, Volume 1, PDF pages 23-24; Exhibit 28170-X0031, 2022-07-21 AUC Enforcement investigation - Energy Sustain Services.

<sup>60</sup> Transcript, Volume 1, PDF pages 38-40; Exhibit 28170-X0004, Appendix B - ESS email response to Enforcement Jul 28 and Aug 15 2022 attachments removed.

39. Enforcement staff stated that on or about October 1, 2022, ESS replaced the power plant with a custom-made, low noise 503-kilowatt generator.<sup>61</sup> Response Energy and ESS had been planning to replace the power plant with a smaller generator since at least March 29, 2022.<sup>62</sup>

## 5 Assessment of the alleged contraventions

40. In this section, the Commission provides its findings on each of the contraventions alleged by Enforcement staff.

### 5.1 Allegations against Zong Tang

41. In their application, Enforcement staff has alleged that the Respondents, ESS and Z. Tang, have committed Contravention 1 and Contravention 2.<sup>63</sup> Elsewhere in their application, Enforcement staff stated that:

76. Enforcement staff have brought this application against both ESS and Z. Tang as named Respondents. As set out in the facts filed in support of this application, Z. Tang is the sole director and shareholder of ESS. The power plant is owned by ESS however, there is no other person involved in the operation or running of the power plant nor has any other person executed contracts between ESS and Response Energy. Electricity generated from the power plant is used to operate crypto-mining machines owned by Z. Tang and he does not pay ESS for the electricity produced.

77. Enforcement staff contend that corporate structures should not be used to shelter individuals from administrative sanctions by the fact that the unlawful actions carried out by Z. Tang were carried out through a corporation which he directed and controlled.<sup>64</sup>

42. Enforcement staff is effectively asking the Commission to pierce the corporate veil in order to find that the responsibilities and acts of ESS are also the responsibilities and acts of Z. Tang.

43. In sections 5.2 and 5.3, the Commission will assess whether Enforcement staff have proven the alleged contraventions. In Section 5.4, the Commission will determine whether it is appropriate to pierce the corporate veil.

### 5.2 Contravention 1: Did ESS construct or operate a power plant without an approval from the Commission contrary to Section 11 the *Hydro and Electric Energy Act*?

44. In their application, Enforcement staff described Contravention 1 as follows:

The Respondents operated the power plant from February 15, 2022 until May 31, 2022, without an approval from the Commission contrary to the *Hydro and Electric Energy Act*

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<sup>61</sup> Exhibit 28170-X0002, Application by AUC Enforcement staff re ESS, PDF page 7, paragraph 30.

<sup>62</sup> Exhibit 28170-0011, Appendix I - Response Energy letter March 29 2022. See also Exhibit 28170-X0010, Appendix H - April 8 2022 Noise Complaint Investigation; Exhibit 28170-X0009, Appendix G - Response Energy letter May 30 2022.

<sup>63</sup> Exhibit 28170-X0002, Application by AUC Enforcement staff re ESS, see for example paragraphs 2-5, 37-38, 40-41, 45, 46, 48, 52, 55, 75.

<sup>64</sup> Exhibit 28170-X0002, Application by AUC Enforcement staff re ESS, PDF pages 15-16, paragraphs 76-77.

and Rule 007: *Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments [sic]. (Contravention 1)*<sup>65</sup>

45. Elsewhere in their application, Enforcement staff clarified that they are alleging contraventions of Section 11 of the *Hydro and Electric Energy Act* and Section 1.4.3 of Rule 007.<sup>66</sup>

46. The Commission notes that while Enforcement staff alleges contraventions of both the *Hydro and Electric Energy Act* and of Rule 007, those contraventions relate to only one alleged wrongdoing – operating a power plant without an approval from the Commission. On that basis, the Commission need only consider whether the Respondents constructed or operated a power plant without an approval from the Commission contrary to Section 11 the *Hydro and Electric Energy Act*.

47. The Commission also notes that the version of Rule 007 effective at the time of the alleged contraventions did not contain a Section 1.4.3.<sup>67</sup>

48. Contravention 1 alleges that the Respondents constructed or operated the power plant from February 15, 2022, until May 31, 2022, without an approval from the Commission, and that doing so is contrary to Section 11 of the *Hydro and Electric Energy Act*. The Commission finds that Enforcement staff has proven this contravention as against ESS on a balance of probabilities.

49. The Commission does not understand Enforcement staff to have alleged that Z. Tang constructed, operated, or was otherwise responsible for the power plant in his personal capacity. For clarity, if Enforcement staff has alleged that Z. Tang constructed, operated, or was otherwise responsible for the power plant in his personal capacity, the Commission finds that this allegation has not been proven and, on that basis, that Enforcement staff has not proven Contravention 1 as against Z. Tang on a balance of probabilities.

50. The Commission considers that Contravention 1 contains two related components, which the Commission assesses below. First, the Commission assesses whether ESS constructed or operated the power plant without prior approval from the Commission. The Commission concludes that ESS operated the power plant without Commission approval. Next the Commission assesses whether operating the power plant without an approval from the Commission contravened the *Hydro and Electric Energy Act*. The Commission concludes that it did.

51. Lastly, the Commission assesses whether ESS has established the defence of due diligence and finds that it did not.

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<sup>65</sup> Exhibit 28170-X0002, Application by AUC Enforcement staff re ESS, PDF page 3, paragraph 3.

<sup>66</sup> Exhibit 28170-X0002, Application by AUC Enforcement staff re ESS, see for example PDF page 15, paragraph 75.

<sup>67</sup> The time period during which the power plant was in operation spans two different versions of Rule 007. The current version of Rule 007 has been in effect since April 25, 2022. The immediately previous version of Rule 007 was effective from September 1, 2021, to April 24, 2022. The applicable version of Rule 007 is the version that was in effect when the power plant began operating. All subsequent references to Rule 007 refer solely to the version that was effective from September 1, 2021, to April 24, 2022, unless otherwise specified.

### 5.2.1 Did ESS construct or operate the power plant without prior approval from the Commission?

52. Section 11 of the *Hydro and Electric Energy Act* provides that no person shall construct or operate a power plant without prior approval from the Commission. Therefore, in order to find that ESS contravened Section 11 of the *Hydro and Electric Energy Act*, the Commission must first determine whether ESS constructed or operated the power plant.

53. ESS was responsible for providing the equipment, ensuring regulatory compliance and paying the costs associated with the power plant. While Response Energy may have undertaken some of the responsibilities related to regulatory compliance and operations at the site, the Commission is satisfied that Response Energy did so on behalf of ESS. Further, the Commission is satisfied that ESS paid all of the costs associated with the power plant. It is uncontroverted that the Commission did not approve the construction and operation of the power plant. Therefore, the Commission finds that ESS operated the power plant without prior approval from the Commission.

### 5.2.2 Was operating the power plant without an approval from the Commission contrary to Section 11 of the *Hydro and Electric Energy Act*?

54. To operate a power plant in Alberta, a person must either apply to the Commission for approval under Section 11 of the *Hydro and Electric Energy Act*, or be able to demonstrate that all of the conditions for an exemption from approval under Section 13 of the *Hydro and Electric Energy Act* and Rule 007 are met. The exemption from requiring Commission approval in Section 13 of the *Hydro and Electric Energy Act* applies where a person is generating or proposing to generate electric energy solely for the person's own use, unless the Commission otherwise directs, and subject to certain further regulatory or Commission requirements. In Section 4.1 of Rule 007, the Commission has established requirements for different types of exemption from requiring its approval to construct or operate a power plant.

55. Section 4.1.1 describes the requirements for an exemption on the basis that the owner of a power plant plans to generate electric energy solely for the owner's own use (own-use exemption),<sup>68</sup> and Section 4.1.3 describes the requirements for an exemption on the basis that a power plant is less than one MW (small power plant exemption).<sup>69</sup> No party to this proceeding has alleged that any other exemption is applicable to the power plant and the Commission is satisfied that the only exemptions that may apply are the ones discussed in the parties' submissions. Below, that Commission explains why neither the own-use exemption nor the small power plant exemption apply.

56. ESS operated the power plant. It is uncontroverted that ESS supplied some of the electricity generated by the power plant to Response Energy and that it supplied the rest of the electricity to Z. Tang. While Z. Tang has alleged that ESS is joint owner of the well with

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<sup>68</sup> In the version of Rule 007 that has been in effect since April 25, 2022, the own-use exemption was eliminated. As described in Bulletin 2022-04, the amendments in the current Rule 007 (including the requirement for owners proposing an own-use power plant one MW or greater and less than 10 MW to file a checklist application, provided that certain criteria are met) apply to new power plants only (i.e., on a go-forward basis starting April 25, 2022).

<sup>69</sup> In the version of Rule 007 that has been in effect since April 25, 2022, the small power plant exemption is unchanged other than now being located at Section 4.1.2.

Response Energy,<sup>70</sup> no party has alleged that Response Energy and Z. Tang share ownership of the well or the crypto-mining facility, let alone are the same legal entity.

57. Given that there are two separate and distinct legal entities (a corporation and an individual) that used the electricity generated by the power plant, neither of which are the respondent ESS itself, the Commission finds that the own-use exemption cannot and does not apply to the power plant.

58. The small power plant exemption applies to power plants that are less than one MW. By the end of the hearing, neither party disputed that whether a power plant is “less than one MW” is determined in reference to nameplate capacity. Nevertheless, the Commission will address the interpretation of “less than one MW” in order to provide clarity.

59. In Rule 007, all applications for a power plant approval include information requirements related to the total capability of that power plant and the nominal capability of each generating unit in that power plant.<sup>71</sup> Further, some of the exemptions in Section 4.1 specifically refer to total capability when describing the size requirements for a power plant under those exemptions.<sup>72</sup> Total capability is defined in Rule 007 as the “cumulative capability of all generating units at a site.” Nominal capability is defined as the “nameplate capacity of a single generating unit.” The Commission considers that a “power plant is less than one MW” means that the total nameplate capacity of all of the generating units in the power plant is less than one MW.

60. It is uncontroverted that the nameplate capacity of the power plant is 1.475 MW. Therefore, the power plant is not less than one MW and the Commission finds that the small power plant exemption does not apply to the power plant.

61. Based on the above, the Commission finds that operating the power plant without an approval from the Commission was contrary to Section 11 of the *Hydro and Electric Energy Act*. As a result, the Commission finds that Contravention 1 is proven as against ESS on a balance of probabilities.

### **5.2.3 Has ESS established the defence of due diligence?**

62. As Enforcement staff has met its burden of demonstrating on a balance of probabilities that ESS committed Contravention 1, the Commission will now assess whether ESS has demonstrated, on a balance of probabilities, that the defence of due diligence has been met.

63. The Commission understands ESS’s position to be that it worked co-operatively with Response Energy and took reasonable steps to avoid contravening Section 11 of the *Hydro and Electric Energy Act*. ESS and Response Energy thought that the steps that they took were adequate to determine that the power plant would not directly and adversely affect any person, would comply with Rule 012, and would have no adverse effect on the environment.

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<sup>70</sup> Exhibit 28170-X0022, ESS Statement of intent participate, PDF page 3.

<sup>71</sup> Applications for hydroelectric power plants and hydro developments only require information concerning the nominal capability of each generating unit.

<sup>72</sup> Sections 4.1.1 and 4.1.4.

64. Generally, mistakes of law cannot ground a due diligence defence.<sup>73</sup> Acting in good faith in ignorance of the law or under a reasonable mistake as to the existence and interpretation of the law cannot exempt a contravener from liability.<sup>74</sup> No exception to this principle has been alleged.<sup>75</sup>

65. In this case, prior to commencing operation of the power plant, ESS erroneously believed that the power plant fell under the small power plant exemption based on an incorrect interpretation of “less than one MW.” At that time, ESS may have also erroneously believed that the power plant fell under the own-use exemption due to another incorrect interpretation of “solely for the owner’s own use.” These are not the sort of mistakes (i.e., the reasonable belief in a mistaken fact) that would ground the defence of due diligence. Rather, they are mistakes in law and for that reason the Commission finds that ESS has not established the defence.

### 5.3 Contravention 2: Did the noise from the power plant exceeded the PSL contrary to Section 1.3 of Rule 012?

66. Contravention 2 alleges that the power plant operations exceeded the PSL, contrary to Rule 012. The Commission finds that Contravention 2 is not proven on a balance of probabilities because there is insufficient evidence to determine that noise from the power plant, measured cumulatively with noise from the well and well-related infrastructure<sup>76</sup> exceeded the PSL.

67. To comply with Section 1.3 of Rule 012, “the noise from a facility, measured cumulatively with noise from other energy-related facilities, shall not exceed the permissible sound level determined in accordance with this rule.”<sup>77</sup>

68. A “facility” is defined in Rule 012 as “a gas utility pipeline, hydro development, **power plant**, substation or transmission line” (emphasis added).<sup>78</sup> The power plant is clearly a facility for the purposes of Rule 012.

69. An “energy-related facility” is defined as “[a] facility under the jurisdiction of the Commission or other regulatory agency, used for energy generation, and resource extraction.”<sup>79</sup> It is the Commission’s view that, for the purposes of the definition of an energy-related facility, “resource extraction” refers to the extraction of natural resources that can be used as a source of energy. The Commission is satisfied that the well and well-related infrastructure are “energy-related facilities” for the purposes of Rule 012.

70. The crypto-mining facility is neither a “facility” nor an “energy-related facility”, as defined in Rule 012. The phrase “non-energy related facility” is not defined in Rule 012 but is referenced in the rule in conjunction with the following examples: “manufacturing plants, gravel

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<sup>73</sup> See *La Souveraine, Compagnie d'assurance générale v Autorité des marchés financiers*, 2013 SCC 63 at paragraph 57.

<sup>74</sup> See *La Souveraine, Compagnie d'assurance générale v Autorité des marchés financiers*, 2013 SCC 63 at paragraph 57; *Corporation de l'École Polytechnique v Canada*, 2004 FCA 127 at paragraph 38.

<sup>75</sup> For example, that a mistake of law was an officially induced error.

<sup>76</sup> See Exhibit 28170-X0008, Appendix F - March 25 2022 noise impact assessment report, PDF page 7, which lists the equipment at the site as including compressor, electric motor, cooler, compressor building, separator, separator building, and motor control centre building.

<sup>77</sup> Rule 012: *Noise Control*, Section 1.3, PDF page 5.

<sup>78</sup> Rule 012: *Noise Control*, Section 1.1, PDF page 5; Appendix 1 – Glossary, PDF page 43.

<sup>79</sup> Rule 012: *Noise Control*, Appendix 1 – Glossary, PDF page 43. Energy-related facilities include mining, extraction, processing and transportation (except by road or rail line) as well as federally regulated electrical transmission lines and pipelines: Rule 012: *Noise Control*, Appendix 1 – Glossary, PDF page 43.



pit operations and commercial plants.”<sup>80</sup> The Commission is satisfied that, for the purposes of Rule 012, a crypto-mining facility should be treated as a non-energy related facility.

71. To comply with the requirements for a CSL survey in Rule 012 either the CSL measurements should have been taken when the crypto-mining facility was shut down, or noise from the crypto-mining facility should have been removed from the measured CSL data.<sup>81</sup> It appears to the Commission that neither of these steps occurred. Including noise from the crypto-mining facility may have contributed to a determination that the noise exceeded the PSL. Having regard to this material shortcoming, the Commission finds that there is insufficient evidence to determine that noise from the power plant, measured cumulatively with noise from other energy-related facilities, exceeded the PSL.

72. The Commission acknowledges Response Energy’s and ESS’s conduct in responding to the complaint. At the most basic level, the intent of Rule 012 is to ensure that the noise from Commission-regulated facilities does not unreasonably adversely impact the facilities’ neighbours. The Commission commends Response Energy and ESS for treating the three operations at the site as one “facility” for the purposes of assessing and mitigating the noise impacts that their operations had on their neighbours, particularly given the level of integration between the different operations.

#### **5.4 Is it appropriate for the Commission to pierce the corporate veil?**

73. Under the law, ESS and Z. Tang are separate legal persons. The *Business Corporations Act* provides for a corporation establishing a separate corporate personality from its shareholders.<sup>82</sup> The distinction between the different legal persons of a corporation and its shareholders and directors is called the “corporate veil.” The concept of the separate corporate personality has been an essential part of corporate law for over a century.<sup>83</sup> Notwithstanding the lack of express authority in its enabling legislation, the Commission has the powers of a King’s Bench judge,<sup>84</sup> and therefore has the legal authority to “pierce the corporate veil” at common law.

74. Enforcement staff’s arguments concerning why it is appropriate for the Commission to pierce the corporate veil in order to find Z. Tang liable for the alleged contraventions can be classed into four categories: (1) ESS is a single-purpose corporation with Z. Tang as the sole director and shareholder;<sup>85</sup> (2) Z. Tang is the alter ego of ESS as Z. Tang is ultimately responsible for ESS’s costs and is the recipient of financial benefits from ESS;<sup>86</sup> (3) ESS is not a bona fide corporation, but was only established to shield Z. Tang from the consequences of wrongful conduct;<sup>87</sup> and (4) if the Commission finds that only ESS has committed contraventions, the Commission will be unable to fulfill its mandate because any penalty or disgorgement that might be ordered will never be paid by ESS because ESS has been

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<sup>80</sup> Rule 012: *Noise Control*, Appendix 8, PDF page 24.

<sup>81</sup> See Rule 012: *Noise Control* at Section 4.3: Isolation analysis, PDF pages 25-26.

<sup>82</sup> *Business Corporations Act*, RSA 2000, c B-9, ss 16(1), 46(1).

<sup>83</sup> See *Condominium Corporation No. 0828219 v Carrington Holdings Ltd*, 2023 ABCA 222 at paragraph 12.

<sup>84</sup> *Alberta Utilities Commission Act*, SA 2007, c A-37.2, section 11.

<sup>85</sup> Exhibit 28170-X0002, Application by AUC Enforcement staff re ESS, PDF page 15, paragraph 76; Transcript, Volume 1, pages 60, 63.

<sup>86</sup> Exhibit 28170-X0002, Application by AUC Enforcement staff re ESS, PDF page 15, paragraph 76

<sup>87</sup> Transcript, Volume 1, pages 62-64.

deliberately structured to have no assets.<sup>88</sup> The Commission will address each of these arguments in turn.

75. The first argument cannot by itself provide a basis for piercing the corporate veil. As recently noted by the Court of Appeal of Alberta, the *Business Corporations Act* makes no exception to the principle of separate identity for single shareholder corporations.<sup>89</sup> Courts have cautioned against concluding that the corporation has no “real” independent existence simply because one person, being the sole shareholder and director, controls the corporation and is the ultimate beneficiary of any economic value within the corporation.<sup>90</sup> There is also no exception for “single-purpose” corporations that are completely controlled by its shareholder.<sup>91</sup> It is only in the face of extraordinary circumstances such as some fraud or improper purpose that the Commission may disregard the fundamental principle of separate identity and view the corporation as an “agent” or “puppet” of its controlling shareholder or director.<sup>92</sup>

76. Extraordinary circumstances are required to provide a basis for piercing the corporate veil, notwithstanding that a sole shareholder receives an economic benefit from or provides funding to a corporation. The circumstances alleged by Enforcement staff in their second argument are not entirely substantiated and do not provide a basis for lifting the corporate veil. ESS paid all relevant costs associated with the power plant. While Z. Tang admitted that he is ultimately responsible for those costs as the sole shareholder of ESS, he also noted that the power plant was ESS’s first project and that ESS should be able to make a profit once other projects are in operation.<sup>93</sup> Enforcement staff has alleged that Z. Tang does not pay ESS for the electricity used to run the crypto-mining facility,<sup>94</sup> but did not provide sufficient evidence to substantiate this assertion.

77. The third and fourth arguments fail for similar reasons. Based on the evidence in this proceeding, the Commission finds that ESS was incorporated for legitimate business purposes. In addition to the power plant, ESS conducts some consulting services and intends to develop further projects. ESS has entered into contracts. It engages in a separate business (power generation) to Z. Tang’s crypto-mining operations. Enforcement staff submitted that ESS voluntarily shut down the power plant at their request and subsequently replaced the power plant with a custom-made, low noise 503-kilowatt generator. Enforcement staff provided no evidence that ESS was incorporated to shield Z. Tang from the consequences of wrongful conduct or that that ESS was deliberately structured to have no assets. In addition, the extent to which a contravener is able to pay a potential penalty is a matter for Phase 2 of an enforcement proceeding.

78. For the above reasons, the Commission finds that it is not appropriate to lift the corporate veil. Enforcement staff has not proven the alleged contraventions as against Z. Tang.

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<sup>88</sup> Transcript, Volume 1, pages 62-64.

<sup>89</sup> *Swanby v Tru-Square Homes Ltd*, 2023 ABCA 224 at paragraph 33.

<sup>90</sup> See *Driving Force Inc v I Spy-Eagle Eyes Safety Inc*, 2022 ABCA 25 at paragraphs 56-57.

<sup>91</sup> See *Condominium Corporation No. 0828219 v Carrington Holdings Ltd*, 2023 ABCA 222 at paragraph 12.

<sup>92</sup> See *Swanby v Tru-Square Homes Ltd*, 2023 ABCA 224 at paragraph 34; *Condominium Corporation No. 0828219 v Carrington Holdings Ltd*, 2023 ABCA 222 at paragraph 12. See also *R v D&J Isley & Sons Contracting Ltd*, 2020 ABQB 11 at paragraphs 44-47.

<sup>93</sup> Transcript, Volume 1, page 49.

<sup>94</sup> Exhibit 28170-X0002, Application by AUC Enforcement staff re ESS, PDF pages 5, 15, paragraphs 14, 76.

## 5.5 Conclusion

79. With respect to Contravention 1, the Commission finds that ESS operated the power plant without an approval from the Commission from February 15, 2022, until May 31, 2022, and that doing so was contrary to Section 11 of the *Hydro and Electric Energy Act*.

80. With respect to Contravention 2, the Commission finds that there is insufficient evidence to determine that noise from the power plant, measured cumulatively with noise from other energy-related facilities, exceeded the PSL.

81. With respect to the allegations against Z. Tang, the Commission finds that it is inappropriate to pierce the corporate veil and therefore, finds that Enforcement staff has not proven the alleged contraventions as against Z. Tang.

## 6 Remedy for the contravention found in this decision

82. As indicated in the Commission's notice,<sup>95</sup> its enforcement proceedings generally may require two phases. In the first phase, the Commission determines whether the alleged contraventions have been proven. In the second phase, if required, the Commission determines the appropriate remedy for the alleged misconduct established in the first phase.

83. Based on the findings above, on receipt of an application from Enforcement staff, the Commission will commence the second phase of this proceeding to consider the specific sanctions to impose against Energy Sustain Service Ltd. as a result of its contravention of Section 11 of the *Hydro and Electric Energy Act*.

Dated on December 12, 2023.

**Alberta Utilities Commission**

*(original signed by)*

Michael Arthur  
Commission Member

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<sup>95</sup> Exhibit 28170-X0020, Notice of enforcement proceeding.

**Appendix A – Proceeding participants**

<b>Name of organization (abbreviation) Name of counsel or representative</b>
Alberta Utilities Commission - Enforcement Greg Andrews Laura-Marie Berg (Enforcement counsel)
Energy Sustain Service Ltd. Zong Tang
Alberta Utilities Commission  Commission panel Michael Arthur, Commission Member  Commission staff Andrew Culos (Commission counsel) Alyssa Marshall (Commission counsel) Kyle Surgenor Muhammad Younus