



Salt Box Coulee Water Supply Company Ltd.

**Decision on Preliminary Question
Application for Review of Decision 28021-D02-2024 and
Order 28021-D03-2024**

March 8, 2024

Alberta Utilities Commission

Decision 28021-D04-2024

Salt Box Coulee Water Supply Company Ltd.

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Proceeding 28021

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Salt Box Coulee Water Supply Company Ltd.

Decision on Preliminary Question

**Application for Review of Decision 28021-D02-2024 and
Order 28021-D03-2024**

**Decision 28021-D04-2024
Proceeding 28021**

1 Decision

1. In this decision, the Alberta Utilities Commission must determine whether to grant an application filed by Salt Box Coulee Water Supply Company Ltd. requesting a review of Decision 28021-D02-2024¹ (Decision) and Order 28021-D03-2024² (Order). The review application was filed pursuant to Section 10 of the *Alberta Utilities Commission Act* and Rule 016: *Review of Commission Decisions*.

2. The Decision denied a Negotiated Settlement Agreement (Phase 2 NSA) application filed by AUC Enforcement staff in relation to penalties for enforcement contraventions established in Decision 28021-D01-2024,³ following Salt Box's non-compliance with the Phase 2 NSA's agreed-upon terms.

3. The Order directed Salt Box to file documents with the Commission relating to the utility's financial position by February 5, 2024. The Commission ordered all documents relating to the financial position dating from January 1, 2018, to December 31, 2023. The documents included the items listed in Appendix 1 of the Order and any records prepared in relation to the ongoing effort to obtain an audit.

4. Following the Order, the Commission granted an extension requested by Salt Box, requiring documents in its immediate possession to be filed by February 22, 2024, and the remainder of documents to be filed by March 11, 2024.

5. The Commission has decided to deny the review application because the Decision and Order were interlocutory in nature, and Salt Box has failed to persuade the Commission that there are special circumstances that warrant granting review. While the Commission initially designated the review application as Proceeding 28837, it has determined that it is most appropriate to consider the review application in Proceeding 28021 given the interlocutory nature of the Decision and Order, and the need for expedient resolution of this matter.

6. In reaching its determination, the review panel has reviewed the Decision and the Order as well as relevant materials comprising the record of this proceeding and of proceedings 24295

¹ Decision 28021-D02-2024: Enforcement Staff of the Alberta Utilities Commission, Phase 2 Enforcement Proceeding with Salt Box Coulee Water Supply Company Ltd. – Denial of Negotiated Settlement Agreement Application, Proceeding 28021, January 16, 2024.

² Order 28021-D03-2024: Salt Box Coulee Water Supply Company Ltd., Order Requiring Provision of Financial Information, Proceeding 28021, January 16, 2024.

³ Decision 28021-D01-2023: Enforcement Staff of the Alberta Utilities Commission, Phase 1 Enforcement Proceeding with Salt Box Coulee Water Supply Company Ltd., Proceeding 28021, August 15, 2023.

and 21908, all of which involve in some manner the Commission's repeated attempts to have Salt Box provide financial documents.

2 Background

7. While the Decision and Order were issued in Proceeding 28021, the provision of Salt Box's financial records to the Commission has been a long-standing issue in several related proceedings. [Appendix 1](#) to this decision contains a more complete history of the Commission's efforts to obtain audited financial statements from Salt Box dating back to 2017.

8. The current proceeding, Proceeding 28021, was convened to consider an application from AUC Enforcement staff alleging that Salt Box had committed two contraventions of a prior Commission decision in Proceeding 24295.

9. Enforcement staff received a complaint concerning unapproved charges being levied by Salt Box on lot owners. Enforcement staff then commenced an investigation. Several additional complaints were received from residents in August 2021 regarding allegations of inadequate system maintenance and Salt Box's service charges. On December 13, 2021, Enforcement staff received an additional referral from the Commission advising that Salt Box was in breach of the direction in Decision 24295-D02-2020⁴ to file audited financial statements for 2020.

10. On February 15, 2023, Commission Enforcement staff filed an application requesting a Phase 1 enforcement proceeding regarding the conduct of Salt Box. Enforcement proceedings before the Commission generally consist of two phases: Phase 1 to consider whether a contravention has occurred and, if a contravention was found, Phase 2 to consider the appropriate penalty. Enforcement staff submitted that Salt Box contravened Decision 24295-D02-2020 by failing to file audited financial statements for 2020 as directed and by charging monthly fees and rate riders to unconnected lot owners contrary to the approved rates and terms and conditions of service.

11. On February 21, 2023, the Commission issued notice that it would commence a Phase 1 proceeding to consider the allegations against Salt Box (Proceeding 28021).

12. On August 15, 2023, in Decision 28021-D01-2023, the Commission found that Salt Box had committed the following contraventions:

- (a) Failing to file audited financial statements contrary to the Commission's direction in Decision 24295-D02-2020 (Contravention 1).
- (b) Charging monthly fees and rate riders to unconnected lot owners contrary to the rates and terms and conditions of service approved in Decision 24295-D02-2020 (Contravention 2).

13. While the Commission acknowledged that Salt Box's rates may need to be reviewed at some point, it held that a revisitation or reconsideration of Salt Box's rates was outside of scope of Phase 1 of the enforcement proceeding. Additionally, given the significant and long-standing

⁴ Decision 24295-D02-2020: Salt Box Coulee Water Supply Company Ltd., 2020 Final Rates, Proceeding 24295, June 29, 2020.

challenges faced with obtaining clear and accurate information about Salt Box's operations and costs, as outlined in greater detail in Appendix 1, the Commission did not consider it tenable to approve new rates in the absence of audited financial statements. The Commission indicated that it would consider whether Salt Box's rates require adjustment in a future proceeding, subject to Salt Box first providing audited financial statements for the year 2020.

14. Having found that Salt Box committed Contravention 1 and Contravention 2, the Commission requested a Phase 2 application be filed by Enforcement staff within 60 days, to allow the Commission to consider the sanctions to be imposed against Salt Box as a result of these contraventions.

15. On October 12, 2023, Enforcement staff communicated that an agreement in principle had been reached with Salt Box regarding penalties for the contraventions found in Phase 1.

16. On October 20, 2023, Salt Box and Enforcement staff proposed the Phase 2 NSA to address the contraventions established in Phase 1. The Phase 2 NSA requested the Commission approve the following:

- For Contravention 1, by December 15, 2023, Salt Box must complete and submit its audited financial statements as set out in the Commission's direction in Decision 24295-D02-2020. If Salt Box fails to complete and submit its audited financials by December 15, 2023, Salt Box must refund \$14,796.72 collected through the audit rate rider to those customers affected by this levy. This refund represents the disgorgement of any economic benefits gained as a result of this contravention and must not be reassigned and distributed to Salt Box's existing customers. This amount must be paid no later than January 31, 2024.
- For Contravention 2, Salt Box must refund \$11,070.91 improperly collected from unconnected lot owners through the monthly fixed charges, UV rate rider and audit rate rider. This refund reflects the disgorgement of improperly collected funds from non-customers as the result of this contravention and must not be reassigned and distributed to Salt Box's existing customers, unless Salt Box is authorized to do so through a future order of the Commission following a rates application. In recognition of the stated financial difficulties Salt Box is currently facing and the importance of the provision of ongoing utility service, Enforcement staff agree that the repayment of these amounts should occur through equal monthly amounts over a period of one year, commencing in January 2024.⁵

17. The Commission issued a notice of settlement agreement and subsequently established a process that involved information requests, submissions from the intervener on the Phase 2 NSA, and response submissions from Enforcement staff and Salt Box. Salt Box submissions were due on December 8, 2023.

18. On December 9, 2023, Salt Box provided its response to the Commission. The response, in effect, stated that Salt Box could not meet the terms in the Phase 2 NSA despite it having agreed to the terms. Salt Box indicated that it was in the process of completing the audit on a reduced budget approach. Salt Box stated that the audit quote was \$50,000. Salt Box also stated that it was in no position to fund any refunds to customers. On December 15, 2023, Salt Box filed an unaudited balance sheet and income statement for the years 2019 and 2020. Salt Box

⁵ Exhibit 28021-X0049, 2023-10-19_Final Settlement Agreement-SaltBox, October 20, 2023, PDF page 4.

indicated that it intended to file audited financial statements, but also clarified that it had not yet retained a suitable auditor.

19. On January 4, 2024, the Commission became aware that Salt Box was struck from the Alberta Corporate Registry for failure to file annual returns. Salt Box subsequently informed the Commission that Salt Box would be revived no later than Friday, January 12, 2024. Corporate searches indicate that Salt Box was revived on February 16, 2024.

20. The hearing panel issued the Decision and Order on January 16, 2024. The Decision denied the Phase 2 NSA application, finding that approval of the Phase 2 NSA would be contrary to public interest.

21. The relevant findings in paragraphs 9 to 26 of the Decision are set out below:

3 Denial of NSA application

9. A negotiated settlement can have significant benefits for all parties to an enforcement proceeding, and for the administration of justice. Negotiated settlements can resolve matters efficiently, thereby allowing scarce time, resources and expenses to be channeled into other matters. In part due to the benefits of promoting negotiated settlements, the Commission will generally not disturb a settlement agreement reached between parties, unless the proposal would bring the administration of justice into disrepute or otherwise be contrary to the public interest. This high threshold for departing from a negotiated settlement is consistent with principles developed by courts for joint submissions on sentencing in the criminal law context.

10. **In the current circumstances, however, the Commission finds that approval of the NSA would be contrary to public interest.** This is because it is clear that Salt Box, based on its own statements, is unwilling or unable to adhere to the terms to which it has agreed.

11. With respect to Contravention 1, the deadline in the settlement agreement for Salt Box to provide audited financial statements has lapsed. Salt Box suggested that it was in the process of obtaining audited financial statements, but did not provide any evidence to substantiate that suggestion. Further, Salt Box raised substantial doubt about its intent and ability to fund the refund it agreed to pay should it fail to provide audited financial statements.

12. With respect to Contravention 2, Salt Box also raised substantial doubt about its ability to fund the refund it agreed to pay. Under the proposed settlement agreement, Salt Box would refund \$11,070.91 in equal payments over a period of one year, commencing in January 2024. The Commission notes that the calculation of this amount was based on representations made by Salt Box to Enforcement staff about the amount it had collected, and not verifiable accounting records. Regardless, Salt Box subsequently indicated that it “is not possible to fund any refunds at this time.” Salt Box instead suggested that any refund would need to wait until after its next rate application is approved. As Salt Box is aware, the Commission has previously been clear that it will not consider any new rate application by Salt Box until audited financial statements have been provided.

13. For a negotiated settlement to be in the public interest, it is imperative that the parties are able and willing to abide by the commitments made therein. There is no benefit to the public in approving a settlement agreement that cannot or will not

realistically be fulfilled. For these reasons, the Commission finds that approval of the NSA would be contrary to the public interest.

14. Accordingly, the Commission denies the application to approve the NSA.

...

4 Production of financial documents

16. As noted in several decisions involving Salt Box, the provision of audited financial statements has been a source of contention for a long time. The Commission has repeatedly emphasized the need for accurate financial statements in setting rates for Salt Box and its customers, and has confirmed that no further rates applications will be considered until audited financial statements are provided to the Commission.

...

22. Salt Box's failure to provide its audited 2020 financial statements, despite having collected funds for this purpose, was referred to AUC Enforcement staff, and forms the substance of Contravention 1 of this enforcement proceeding. It has now been more than two years since the extended deadline lapsed, and more than six years since the Commission first directed Salt Box to provide audited financial statements, and no audited financial statements for any year have ever been received.

23. The consequences of Salt Box's continued failure to provide audited financial statements are severe, and affect all parties. The Commission understands that Salt Box may have been operating with a revenue shortfall, but is unable to ascertain the existence and severity of this shortfall due to a lack of transparency into Salt Box's operations....

24. The absence of audited financial statements also hinders the Commission's ability to efficiently resolve this enforcement proceeding. The Commission is faced with having to determine an appropriate penalty for Salt Box, without any insight as to the effect of a potential penalty on the financial viability of the utility. As noted by Enforcement staff, during settlement negotiations it had no direct access to Salt Box's accounting records, and was required to rely on information provided by Salt Box.

25. Successful negotiated settlements are premised on both parties participating in good faith, with a strong understanding of the circumstances of the offender and the relative strengths and weaknesses of their respective positions. These conditions do not currently exist. In these circumstances, the Commission is not satisfied that there is any benefit to accommodating new settlement negotiations at this time.

26. The Commission does not consider that it can fairly and efficiently resolve this enforcement proceeding and determine an appropriate penalty to impose on Salt Box in the absence of any transparency into Salt Box's financial situation. **Accordingly, in order to resolve this proceeding, the Commission has determined that it will compel the production of financial documents and scrutinize the financial situation of Salt Box.**

[findings under review; emphasis added; footnotes deleted]

22. The Order directed Salt Box to provide financial documents for Commission scrutiny:

The Commission hereby orders Salt Box Coulee Water Supply Company Ltd. and Jeffrey Colvin:

1. To file with the Commission all documents relating to the financial position of the utility dating from January 1, 2018, to December 31, 2023. **The documents must include, at a minimum, the items listed in Appendix 1 to this order. The documents must also include any records prepared in relation to Salt Box’s ongoing effort to obtain an audit.** All documents must be filed with the Commission no later than February 5, 2024. [emphasis added]
23. On February 6, 2024, counsel for Salt Box wrote to the Commission requesting the Commission refrain from immediately enforcing the Decision for a period of 30 days.
24. On February 8, 2024, the Commission granted the requested extension, in part, subject to the following condition:
 - (a) Salt Box must provide all documents related to the financial position of the utility in its immediate possession no later than 4 p.m., February 22, 2024. The balance of the documents must be provided no later than Monday, March 11, 2024.⁶
25. On February 15, 2024, Salt Box filed its review application. However, on February 22, 2024, Salt Box filed several hundred documents in Proceeding 28021 in an apparent attempt to comply with the Decision and Order.

3 Submissions of Salt Box

26. In the review application, Salt Box raised concerns about the stress it is facing, including in relation to obtaining a financial audit and that quotes for a financial audit were significantly higher than the rider that was previously approved by the Commission. Salt Box suggested that the Commission’s initial direction to require an audit in 2020 was based on incorrect information.
27. Salt Box stated that it has tried to be creative and work with various accountants and bookkeepers, which has significantly extended the time to get the audit completed. While Salt Box was able to get the company’s unaudited financial statements completed for 2020 and has provided them to the Commission, there have been ongoing difficulties in sourcing a suitable auditor with the necessary qualifications to conduct an audit.
28. Salt Box stated that the Order required Salt Box “to provide now 6 (six) years of overly detailed information on all aspects of the operations, financial and otherwise in a matter of 2 weeks.” Salt Box maintains this is neither reasonable nor possible.
29. The review application also sets out concerns about financial approvals of the Commission, including in relation to utility system upgrades that were mandated by Alberta Environment and in relation to depreciation funding or return on capital.

⁶ Exhibit 28021-X0071, AUC letter – Ruling on Salt Box request for extension to record production deadline, paragraph 3.

Commission findings

30. The Commission must determine whether to grant Salt Box’s application to review the Decision and Order. A threshold issue is whether the Decision and Order are eligible for review. Central to this determination is whether the Decision and Order constitute a final determination of Salt Box’s substantive rights, or whether the Decision and Order are interlocutory in nature. If the Decision and Order are interlocutory in nature, the courts have established guidelines for when a review application should be considered.

Are the Decision and Order final or interlocutory in nature?

31. Courts have defined “interlocutory judgement or order” in the following manner:

An “interlocutory judgment or order” is one that does not determine in whole or in part any substantive right of any of the parties.⁷

32. The Commission is of the view the Decision and the Order did not determine, in whole or in part, any substantive rights of Salt Box or any other parties’ rights. The Decision and Order were issued in the context of the Commission adjudicating a Phase 2 enforcement proceeding, which is ongoing. The Decision denied the Phase 2 NSA as a resolution to the Phase 2 enforcement proceeding after finding that it was not in the public interest in the given circumstances. The Decision noted that the deadline in the Phase 2 NSA for Salt Box to provide audited financial statements had lapsed and that Salt Box, in its own admission, was unwilling or unable to adhere to the terms to which it agreed. The Commission therefore determined that it would establish further process to determine the outcome of the Phase 2 enforcement proceeding, which includes an opportunity for Salt Box to provide submissions prior to the Commission making any final decision on an appropriate penalty.

33. The Decision noted that the provision of financial statements has been a source of contention for a long time and that the consequences of Salt Box’s continued failure to provide audited financial statements are severe and affect all parties. The Commission acknowledged that Salt Box may have been operating with a revenue shortfall, which could be relevant to its ability to pay a penalty, but it was unable to ascertain the existence and severity of this shortfall due to a lack of transparency into Salt Box’s operations.

34. To continue towards a resolution of the enforcement proceeding and determine an appropriate penalty for Salt Box as a result of its contraventions established in Decision 28021-D01-2023, the Commission determined that it would compel the production of financial documents and scrutinize the financial situation of Salt Box. To this end, the Order directed Salt Box to file all documents relating to the financial position of the utility between 2018 and 2023. The documents were to include all items listed in Appendix 1 of the Order as well as any records prepared in relation to Salt Box’s ongoing effort to obtain an audit. The provision of these documents would allow the Commission to fairly and efficiently resolve the enforcement proceeding and determine an appropriate penalty to impose on Salt Box. Further, and as noted in the Decision, as a public utility subject to the *Public Utilities Act*, Salt Box and its owners are required to provide documents of this nature to the Commission on an ongoing basis, when the Commission determines it is necessary.

⁷ *Simpson Strong-Tie Company, Inc. v Peak Innovations Inc.*, 2008 FCA 235, paragraph 6.

35. The Commission finds that the Decision and Order were interlocutory in nature. Neither the Decision nor the Order were final determinations of any parties' rights. Rather, the Decision and Order function as procedural interlocutory direction to support the Commission in resolving Phase 2 of this enforcement proceeding, Proceeding 28021.

What is the legal test for review of interlocutory decisions?

36. Regarding review of interlocutory decisions, the Federal Court of Appeal held the following:

... unless there are special circumstances there should not be any appeal or immediate judicial review of an interlocutory judgment. Similarly, there will not be any basis for judicial review, especially immediate review, when at the end of the proceedings some other appropriate remedy exists. These rules have been applied in several court decisions specifically in order to avoid breaking up cases and the resulting delays and expenses which interfere with the sound administration of justice and ultimately bring it into disrepute.⁸

37. The Federal Court of Appeal has also emphasized that, absent special or exceptional circumstances, parties should not be allowed to bypass an administrative appeal process "as long as that process allows the issues to be raised and an effective remedy to be granted."⁹ Further, absent special circumstances, parties may be required to pursue all adequate remedial recourses available through the administrative processes to challenge a final decision prior to seeking judicial intervention.¹⁰

38. The Alberta Court of Appeal has also considered leave applications to appeal interlocutory decisions. It has noted that it is preferred to wait until a tribunal has finished its processes and then consider whether leave to appeal should be granted on any issues. In *Métis Nation of Alberta Region 1 v Joint Review Panel*,¹¹ the Alberta Court of Appeal stated:

[15] The last factor that needs to be considered is the effect that granting leave to appeal would have on the hearing. This Court has on many occasions indicated that it is generally inappropriate to grant leave to appeal on interlocutory issues: [citations omitted]. It is generally preferable to wait until the tribunal has completely finished its work, and then consider whether leave to appeal should be granted on any issues. If there are issues to be appealed, it is much better that they be appealed all at once, and in the context of a specific decision or result. This is desirable for no other reason than that the end result might turn out to be acceptable to the applicants for leave to appeal...

39. The Commission's practice reflects that of the courts. The Commission has previously indicated that it will not consider a review application of an interlocutory ruling except in

⁸ *Szczeczka v Canada (Minister of Employment and Immigration)*, 1993 CanLII 9425 (FCA), paragraph 4; *Greater Moncton International Airport Authority v Public Service Alliance of Canada*, 2008 FCA 68, paragraph 1; *Emery v Alberta (Appeals Commission of the Workers' Compensation Board)*, 2000 ABQB 704, paragraph 16.

⁹ *Canada (Border Services Agency) v C.B. Powell Limited*, 2010 FCA 61, paragraph 33; also see *Pridgen v University of Calgary*, 2012 ABCA 139, paragraph 168.

¹⁰ *Canada (Border Services Agency) v C.B. Powell Limited*, 2010 FCA 61, at paragraph 30; *McDowell v Automatic Princess Holdings, LLC*, 2015 FC 980, paragraph 21.

¹¹ *Métis Nation of Alberta Region 1 v Joint Review Panel*, 2012 ABCA 352.

exceptional circumstances.¹² The reasoning for this position was set out in Decision 2001-38¹³ as follows:

As a matter of general principle, the Board [Alberta Energy and Utilities Board] does not consider it appropriate for parties to file requests for review and variance in relation to rulings made during the course of a proceeding. Other than in exceptional circumstances - such as where a party's ability to participate fairly in the Board's process would be fundamentally compromised - the Board considers that a party wishing to challenge a ruling made by the Board during the course of a proceeding should await the Board's final decision in the matter. The Board's ultimate resolution of the matter, which is the subject of the proceeding, may render the procedural ruling (and any request for review of it) unnecessary.

In the Board's view, R&V [review and variance] requests in relation to interlocutory rulings have the potential to disrupt the Board's process and may create unfairness for other parties. If every Board ruling were subject to an R&V request prior to final determination of the matter by the Board, the fair and efficient disposition of the application could be compromised. The Board considers that it would be better to avoid such consequences, provided that the ruling does not create a fundamental unfairness for the party objecting to the ruling.

The Board considers this view to be consistent with the view taken by courts on judicial review of rulings made by statutory decision-makers during the course of their proceedings. In general, courts dismiss such judicial review applications as being premature, with the potential to disrupt the proceedings before the decision-maker unnecessarily.

40. It is the Commission's practice that interlocutory decisions are only reviewed in exceptional circumstances, which have been narrowly defined. While exceptional circumstances and instances have not been exhaustively set out, the Federal Court has noted the following:

[50] As a result, courts will not interfere with ongoing administrative processes until they have run their course, absent exceptional circumstances....

[51] ... A review of the case law shows that the "exceptional circumstances" allowing the courts to intervene and to review interlocutory decisions have been quite narrowly defined. **While exceptional circumstances may not be exhaustively defined, courts have held that such will exist when the impugned decision is dispositive of a substantive right of a party** (*Canada v Schnurer Estate*, 1997 CanLII 4807 (FCA), [1997] 2 FC 545 (FCA), 208 NR 339 (FCA)), **raises a constitutional issue** (*AG of Quebec and Keable v AG of Canada et al*, 1978 CanLII 23 (SCC), [1979] 1 SCR 218 [*Keable*]), **or goes to the legality of the tribunal itself** (*Cannon v Canada*, 1997 CanLII 6384 (FC), [1998] 2 FC 104 (FCTD), [1997] FCJ no 1552 (QL) (FC)). More recently, the Federal Court of Appeal has gone so far as to say that even those circumstances may not

¹² See for example, the Commission ruling dated February 13, 2009, in Proceeding 87; the Commission ruling dated January 24, 2012, in Proceeding 240; the Commission ruling in Proceeding 2957 dated September 30, 2014; and Decision 20514-D01-2017: The ATCO Utilities (ATCO Gas and Pipelines Ltd. and ATCO Electric Ltd.), Information Technology (IT) Common Matters Proceeding Application for Review and Variance of the Commission's July 20, 2017 Ruling, Proceeding 20514, August 18, 2017.

¹³ Decision 2001-38: ATCO Electric Ltd., 2001-2002 Distribution Tariff, Part C: Phase II, Application 2000132, File 1109-2, May 16, 2020.

qualify as “exceptional”, if there is an internal administrative remedy available: ...¹⁴
[emphasis added]

41. As set out above, the Commission considers the record for Proceeding 28021 to be incomplete for the purposes of determining an appropriate penalty for the contraventions found in Decision 28021-D01-2023. The Decision and Order function to provide the Commission with adequate information to resolve this enforcement proceeding.

42. Salt Box has not set out what might reasonably be considered exceptional circumstances in the context of this proceeding. Salt Box has effective remedies following the issuance of a final decision in this enforcement proceeding. These remedies include filing a review application of the final Commission decision in Proceeding 28021 under Rule 016 and filing a permission to appeal application with the Alberta Court of Appeal.

43. The Commission is not persuaded that there are special or exceptional circumstances that would warrant granting Salt Box’s review application and, consequently, denies Salt Box’s request for review of the ruling.

44. For all of the above reasons, the review application is dismissed. Having dismissed the application on this threshold issue, the Commission is not required to further engage with the merits of the review application. However, the Commission observes that, even if the Decision and Order were final determinations of Salt Box’s substantive rights (which the Commission finds they are not), the review application filed by Salt Box fails to meet the requirements of Rule 016, as it does not identify any eligible grounds of review as described in sections 5(1)(a), (b), (c) or (d) of that rule. Salt Box appears to disagree with the reasonableness of the Decision and Order, but does not identify any specific errors in either the Decision or Order that fall within the scope of Rule 016. This failure to identify eligible grounds for review would also be a sufficient basis on which to dismiss the review application.

45. In conclusion, the Decision and Order, as well as the Commission’s extension of the deadlines to provide financial information, continue to stand. The balance of documents related to the financial position of Salt Box are to be provided no later than **Monday, March 11, 2024**.

4 Order

46. It is hereby ordered that:

- (1) The application by Salt Box Coulee Water Supply Company Ltd. for review of Decision 28021-D02-2024 and Order 28021-D03-2024 is dismissed.

Dated on March 8, 2024.

¹⁴ *Garrick v Amnesty International Canada*, 2011 FC 1099 (CANLII), paragraphs 50-51.

Alberta Utilities Commission

(original signed by)

Vera Slawinski
Panel Chair

(original signed by)

Matthew Oliver, CD
Commission Member

Appendix 1 – History of AUC efforts to obtain Salt Box financials

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

1. On October 27, 2017, in Decision 21908-D01-2017¹⁵ the Commission approved interim rates for Salt Box and directed Salt Box to file an updated application for approval of final rates by July 31, 2018. As part of its final rate application, Salt Box was directed to file audited financial statements for 2015, 2016 and 2017; 2018 and 2019 forecast costs and expenses for water supply; an upgraded plan that detailed additional capital work to be completed; and information regarding support for any affiliate services.
2. Salt Box never provided audited financial statements for 2015, 2016 and 2017.
3. Following several deadline extensions to its final rate application, on February 12, 2019, Salt Box filed its application for final rates (Proceeding 24295). The Commission issued a notice of application for Proceeding 24295 on February 19, 2019, and provided copies of the notice to Salt Box's customers. The notice requested submissions by March 8, 2019. Submissions from the customers raised several common concerns regarding deficiencies in the application, including that Salt Box had not provided all information in the Commission's directions in Decision 21908-D01-2017.
4. On April 18, 2019, the Commission subsequently issued a letter based on its preliminary review of the application for final rates in Proceeding 24295. The Commission identified three deficiencies in the application. The Commission determined that it would not commence testing of the final rates application until Salt Box provided: (i) audited financial statements for 2015, 2016 and 2017; (ii) details of an ultraviolet light disinfection system upgrade; and (iii) financing details for the system. The information was to be supplied to the Commission within 120 days of the issuance of the letter.
5. On June 3, 2019, Salt Box requested the Commission reconsider the need for three years of audited financial statements. Regarding the ultraviolet system, Salt Box stated it needed to be in good financial health in order to secure funding from a traditional lender. Salt Box urged the Commission to set rates as soon as possible. On June 19, 2019, the Commission sought the views of customers regarding Salt Box's request and provided Salt Box an opportunity to respond to the customer submissions.
6. Following submissions from customers and Salt Box, on August 6, 2019, the Commission directed Salt Box to provide audited financial statements only for 2018. The Commission ruled the cost of the audit would be borne from customers; however, the Commission could still direct information for years other than 2018. The Commission also stated that Salt Box should proceed with the installation of the ultraviolet system as soon as practicable, including the finalization of any financing. The Commission would then determine the amount and term of the rate rider.
7. Salt Box failed to provide audited financial statements for 2018.

¹⁵ Decision 21908-D01-2017: Salt Box Coulee Water Supply Company Ltd., Interim Water Rates, Proceeding 21908, October 27, 2017.

8. On October 18, 2019, Salt Box requested that the Commission determine a rate rider for the ultraviolet system based on funding it received through negotiations with the supplier of the system. On November 1, 2019, the Commission directed Salt Box to provide an update about the installation and commissioning of the ultraviolet system upgrade and any extensions that may have been granted by Alberta Environment and Parks, given that the upgrade needed to be complete by December 1, 2019.

9. On December 16, 2019, the Commission issued Decision 24295-D01-2019,¹⁶ approving the rate rider to recover the costs associated with financing, construction and commissioning of the ultraviolet system upgrade.

10. In a process letter dated January 28, 2020, to move the application forward to determine final rates, the Commission requested Salt Box to consent to allowing the Commission to review Salt Box's financial records for 2017, 2018 and 2019. While Salt Box consented, it stated that the 2017, 2018 and 2019 financial statements had not been completed and additional time would be required. Additionally, extending accounting verification to years other than 2018 would be burdensome, and the costs of running the utility were not being covered during the delay.

11. The Commission subsequently held that, given the constraints, it was untenable to delay a determination on final rates while awaiting Salt Box to complete its financial statements. The Commission determined it would follow the same process used to determine interim rates in Proceeding 21908 in order to set final rates for the utility in Proceeding 24295. Following submissions from parties, the record of the Proceeding 24295 closed on May 1, 2020.

12. On June 29, 2020, in Decision 24295-D02-2020 the Commission determined that Salt Box's interim rates were approved as final rates. A 12-month rate rider was approved to fund audit costs submitted by Salt Box. As part of its decision, the Commission ordered Salt Box to provide its audited financial statements for the most recent fiscal year (2020) to the Commission as a post-disposition document in Proceeding 24295, by November 1, 2021.

13. Salt Box failed to provide audited financial statements for 2020.

¹⁶ Decision 24295-D01-2019: Salt Box Coulee Water Supply Company Ltd., Ultraviolet Light System Upgrade Rate Rider, Proceeding 24295, December 16, 2019.