

October 23, 2024

Alberta Utilities Commission  
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**Subject: Bulletin 2024-19 and Consultation on Rule 18 Amendments Regarding Negotiated Settlements**

The Office of the Utilities Consumer Advocate (UCA) has a legislated mandate to represent the interests of Alberta residential, farm and small business consumers of electricity and natural gas in Alberta in proceedings held before the Alberta Utilities Commission (“Commission”) pursuant to Schedule 13.1 of the Government Organization Act.

The UCA appreciates the opportunity to provide input to the Commission's consultation on negotiated settlements, set out in Bulletin 2024-19, in the interest of efficiency, due process, transparency, and public credibility, which are vitally important to utility regulators, stakeholders and members of the public. As the Commission is aware, the Government of Alberta's key goals around red tape reduction initiatives are centered on making the business environment competitive while making utility costs more affordable for consumers.

The UCA notes that there have been a large number of efficiency measures that the Commission has introduced over the last several years, including the Commission's strong encouragement of parties to negotiate settlement agreements, where possible, to reduce the need to litigate many aspects of regulatory applications filed with the Commission. The UCA has actively and successfully participated in these negotiated settlement processes (NSPs) on behalf of the consumers it represents.

The following are the UCA's submissions on key aspects of Bulletin 2024-19.

**Approval to Initiate Settlement Discussions**

The UCA supports the Commission removing duplicative provisions and agrees with the immediate suspension of Section 4(1) and 4(3) of Rule 018 in order to permit parties to initiate settlement discussions without the Commission's approval before or after the filing of an application.

## Settlement Briefs

The proposed section 35(8), regarding the use of a settlement brief to demonstrate “a clear link between each settled issue and the evidence”, may also be useful. While section 6 of Commission Rule 018 required a settlement brief “explaining the basis of the settlement and how it meets the interests of the parties and the public interest”, this new requirement appears to go further in linking evidence in support of the issues and is likely to increase transparency into the issues that were negotiated. This aligns with the UCA’s general position that intervenor evidence should be filed prior to NSPs.

## Commission-led mediations or staff observers or participants in NSPs

As the Commission is aware through feedback from previous stakeholder consultations, the use of mediators in NSPs did not deliver efficiency benefits for any of the parties involved. The UCA would see little value in having Commission staff either mediate or participate, as observers or participants, in NSPs.

The past use of mediators tended to complicate processes and change the dynamics of negotiation sessions. Neither of those outcomes support regulatory efficiency. The presence of Commission staff may inhibit open and transparent dialogue, regardless of whether the staff involved are instructed not to share information with other Commission staff outside of the NSP. Further, having Commission staff involved could also result in additional pressure on participants to accept positions that may not be in their best interest, particularly if the Commission staff appeared to be leaning in one direction.

These risks are not offset by what the Commission may see as a value in having staff be able to comment on the fairness of process, as noted within proposed section 35(6). Parties are quite capable of commenting on fairness without the need for the Commission staff, as participants or observers, doing so.

There are some specific situations where Commission staff participation could be helpful to the parties involved in Commission proceedings. That is more likely the case when dealing with proceedings where parties have little to no experience before the Commission and would benefit from guidance. This is not the case for the majority of proceedings the UCA participates in, where parties are sophisticated entities and have extensive experience dealing with matters before the Commission. There should be recognition of that distinction.

Further, there is a proven track record that parties are able to negotiate and often come to a settlement on regulated utility matters before the Commission.

Yours truly,

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