



AUC

Alberta Utilities Commission

**Compliance and Enforcement
Enforcement Report
July to December 2023**

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1 Summary

Enforcement staff within the Alberta Utilities Commission's Compliance and Enforcement Division issue a report on enforcement activities twice per year. This report covers the period from July to December of 2023.

1.1 Role of Enforcement staff

Enforcement staff are responsible for investigating and ensuring compliance with AUC decisions, orders, rules and legislation under its jurisdiction. As a specialized unit within the AUC, Enforcement staff reduce regulatory burden by investigating complaints and resolving many enforcement matters that would otherwise require formal proceedings. The Executive Director of the Compliance and Enforcement Division reviews the results of investigations and the recommendations of Enforcement staff and determines whether: (1) a further investigation or an enforcement proceeding is required with respect to a complaint, (2) a specified penalty pursuant to Section 63.1 of the *Alberta Utilities Commission Act* should be imposed¹ or, (3) a resolution of an investigation through an informal resolution or a negotiated settlement is adequate. Investigations of complaints and enforcement issues are addressed through a process which promotes efficiency and consistency. Further, the work of the Enforcement staff facilitates timely Commission determinations on a significant volume of matters. The specified penalty program has further enhanced the Commission's effective consideration of service quality matters.

Enforcement staff apply a flexible dispute resolution process in the following areas:

- (a) Landowner and customer complaints related to electric facilities, rates and terms and conditions of service.
- (b) Contraventions of service standards, such as disconnections in error, incorrect billing and other AUC rules for which the Commission may issue notices of specified penalty.
- (c) Enforcement proceedings and settlement agreements.

¹ The Executive Director of the Compliance and Enforcement Division also has the delegated authority to issue specified penalties.

1.2 Summary observations from this period

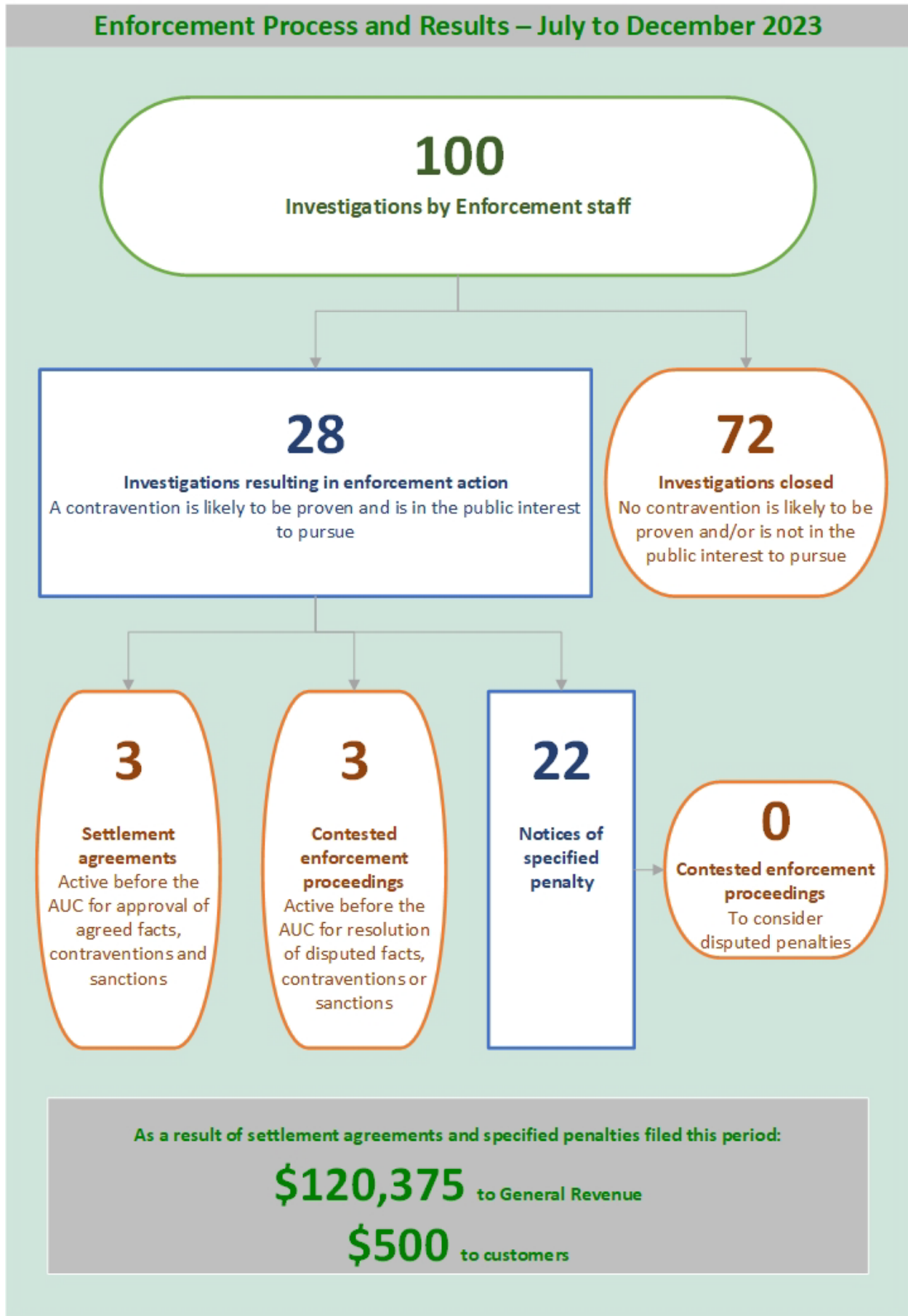
Settlement agreements are one of the most important tools utilized by Enforcement staff to ensure effective and efficient outcomes of enforcement matters. Between July and December of 2023, Enforcement staff filed applications requesting approval of settlement agreement in two new matters, as well as in two ongoing contested enforcement proceedings.

Applications seeking the approval of settlement agreements for new matters included Persist Oil & Gas Inc., whereby it agreed to an administrative penalty of \$112,900 which included \$101,425 in disgorgement. The Consumers' Coalition of Alberta also agreed to pay a \$2,500 administrative penalty. One proceeding remained open from the previous period to consider a settlement agreement filed between Enforcement staff and ENMAX Energy Corporation.

Of the three ongoing contested enforcement proceedings during this period, Enforcement staff reached settlement agreements with Green Block Energy Corp. and Salt Box Coulee Water Supply Company Ltd. A settlement agreement was also reached with Energy Sustain Services Ltd.; however, that agreement it did not occur during this period and will be reported in the next biannual report.

Enforcement staff issued 22 notices of specified penalty this period, which resulted in \$4,975 being paid to general revenue and \$500 being paid to utility customers.

Enforcement staff continued to assess and conclude a large number of smaller investigations. Between July and December of 2023, Enforcement staff concluded 72 smaller investigations. This is an increase from 58 for the previous period and is the largest number of concluded investigations in a six-month period since 86 were closed between July and December of 2020.



2 Enforcement process

Enforcement staff primarily receive referrals from the following sources:

- (a) The Commission's Assistance and Information Services group.
- (b) The Utilities Consumer Advocate.
- (c) The Alberta Electric System Operator.
- (d) The Market Surveillance Administrator.
- (e) Whistleblowers.
- (f) Consumers, as complaints through info@auc.ab.ca or enforcement@auc.ab.ca.
- (g) Market participants, as self-reports.

On receipt of a matter, Enforcement staff conduct an investigation to assess whether further enforcement action is warranted. That assessment is based on two tests: (1) whether a contravention is likely to be proven on a balance of probabilities and (2) whether it is in the public interest to pursue further action. Both of these tests must be satisfied. Potential outcomes from an investigation include:

- (a) A settlement agreement that is filed with the Commission for approval when Enforcement staff and the entity in question reach an agreement on the facts, contravention(s) and resulting sanctions.
- (b) An application for Commission resolution of a contested enforcement proceeding when a settlement agreement cannot be reached.
- (c) Issuance of notices of specified penalty for contraventions of service standards under Rule 003: *Service Standards for Energy Service Providers*, Rule 021: *Settlement System Code Rules* and Rule 028: *Natural Gas Settlement System Code Rules*. These matters may further result in an enforcement proceeding if a notice of specified penalty is disputed.
- (d) Closure of an investigation when no contravention is likely to be proven on a balance of probabilities and/or it is not in the public interest to pursue.

If Enforcement staff close an investigated matter without formally engaging a market participant, the matter is closed without the issuance of a letter. In more serious or complex instances where Enforcement staff have engaged a market participant in an investigation, a letter is issued to both the complainant and the market participant advising parties of the results of the investigation and any conclusions or findings. Notices summarizing the investigations are posted on the "Complaint resolutions and AUC Enforcement decisions" page of the AUC website.

Notices of specified penalty and letters advising of no penalty are redacted to remove the customer's personal information and are also posted. These are found on the issued specified penalties page of the AUC website.

Administrative penalties must be paid into the General Revenue Fund as set out in Section 63(5) of the *Alberta Utilities Commission Act*. Unless otherwise directed, specified penalties are also paid into the General Revenue Fund. Enforcement staff track the payment of specified penalties and reconcile payments with the provincial government to ensure compliance with the Commission's orders.

The sections below provide further details regarding each of the following activities carried out by Enforcement staff during this reporting period:

- (a) Settlement agreements filed for approval
- (b) Applications for contested enforcement proceedings
- (c) Notices of specified penalty
- (d) Closed investigations

Enforcement staff, Commission staff and all Commission Members adhere to the Commission's protocols regarding the segregation of Enforcement staff and adjudicative personnel including those outlined in Bulletin 2016-10: *Practices regarding enforcement proceedings and amendments to AUC Rule 001: Rules of Practice*.

3 Settlement agreements

Settlements allow parties to resolve matters without prolonged expense and time. Settlements can also be effectively and efficiently used to advance public interest objectives, including promoting compliance with Alberta utility laws and to prevent harm to any person, public or private property or to the integrity of the AUC's regulatory processes.

Typically, following an investigation, if Enforcement staff consider that a contravention can be demonstrated and it is in the public interest to pursue, Enforcement staff will first seek to resolve the contravention through settlement. All settlement agreements are filed with the AUC for approval and posted publicly.

During the period between July and December 2023, Enforcement staff filed two new settlement agreements and one settlement agreement proceedings remained open from the previous period:

- (a) In Proceeding 28370, Enforcement staff filed a settlement agreement reached with Persist Oil & Gas Inc. regarding the operation of a power plant without an approval and that exceeded permissible sound levels.
- (b) In Proceeding 28648 Enforcement staff filed a settlement agreement with the Consumers' Coalition of Alberta regarding a breach of confidentiality.
- (c) In Proceeding 28213 Enforcement staff filed a settlement agreement with ENMAX Energy Corporation, also regarding a breach of confidentiality.

A summary of those settlements and key activities that occurred during this period, are provided below.

3.1 Proceeding 28370 – Persist Oil & Gas Inc.

On August 1, 2023, Enforcement staff filed an application for approval of a settlement agreement reached with Persist Oil & Gas Inc. This followed an investigation by Enforcement staff into a complaint from a resident concerning excessive noise. Persist admitted it did not have Commission approval to operate the power plant and that the noise impact assessment demonstrated that it emitted excessive noise violating Rule 012. In response to a request by Enforcement staff, Persist voluntarily shut down the power plant. The power plant did not operate after that time, until Persist obtained Commission approval to operate the power plant on April 24, 2023.

At the conclusion of the investigation, and as set out in the settlement agreement, Persist admitted to the following contraventions:

- (a) From September 15, 2021, until September 20, 2022, it operated a power plant without an approval contrary to Section 11 of the *Hydro and Electric Energy Act*, and Rule 007: *Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines*.
- (b) It operated a power plant contrary to Rule 012: *Noise Control*.

Persist agreed to pay a total penalty of \$122,900 comprised of an administrative penalty of \$11,475 and disgorgement to nullify the value of gains acquired from unlawful operation of the power plant. The settlement agreement was approved by the Commission on October 11, 2023, in Decision 28370-D01-2023.

3.2 Proceeding 28648 – Consumers’ Coalition of Alberta

In March 2023, Enforcement staff commenced an investigation in response to a referral from the AUC panel presiding over Proceeding 27714 regarding a breach of a confidential order in that proceeding.

The investigation confirmed and, for the purposes of the settlement, the Consumer’s Coalition of Alberta (CCA) admitted that it improperly disclosed information on the public record of Proceeding 27714 contrary to Section 30.11 of Rule 001: *Rules of Practice*, and the requirements set out in Form RP5 (confidentiality undertakings) concerning the use and protection of information that had been granted confidential protection pursuant to an AUC order.

The CCA agreed to pay an administrative penalty of \$2,500 and the Commission approved the settlement agreement on December 18, 2023, in Decision 28648-D01-2023.

3.3 Proceeding 28213 – ENMAX Energy Corporation

On May 23, 2023, Enforcement staff filed an application seeking approval of a settlement reached with ENMAX Energy Corporation following an investigation in response to a referral from the AUC panel presiding over Proceeding 27495. That panel had found that ENMAX had breached a confidentiality order in Proceeding 27495.

At the conclusion of the Investigation, Enforcement staff advised ENMAX that it was satisfied that:

On November 4, 2022, EEC disclosed information on the public record of Proceeding 27495 contrary to Section 30.11 of Rule 001: *Rules of Practice* concerning the use and protection of information that had been granted confidential protection pursuant to an AUC order.

As set out in the settlement agreement, ENMAX admitted to the contravention and agreed to the imposition of an administrative penalty of \$2,500. On July 13, 2023, the Commission approved the settlement agreement in Decision 28213-D01-2023.

4 Contested enforcement proceedings

Although Enforcement staff typically first seek to resolve a matter through a settlement, reaching a mutually acceptable settlement is not always possible. When this occurs, Enforcement staff file an application for resolution by the AUC.

During the period between July and December of 2023, Enforcement staff were engaged in three active contested enforcement proceedings. It is worth noting that between July and December of 2023 settlement agreements were filed in two of these proceedings.

4.1 Proceeding 28021 – Salt Box Water Supply Company Ltd.

On February 15, 2023, Enforcement staff filed an application requesting that the AUC initiate a phase 1 enforcement proceeding concerning the conduct of Salt Box Coulee Water Supply Company Ltd. Contested enforcement proceedings are generally conducted in two phases: phase 1 concerns the determination of facts and the contravention; phase two concerns the penalty to be imposed after a contravention has been determined. In that application, Enforcement staff alleged that Salt Box had contravened Decision 24295-D02-2020² by:

- (a) Failing to file audited financial statements contrary to the Commission’s direction in Decision 24295-D02-2020, despite having collected funds from its customers for this purpose; and
- (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.

Subsequent to its application, Enforcement staff made the following submissions during this period:

Table 1. Submissions by Enforcement staff

Exhibit	Title	Date
28021-X0043	AUC Enforcement staff involved	August 2, 2023
28021-X0045	Request for extension	October 12, 2023
28021-X0047	Enforcement letter re request for AUC Approval of Settlement	October 20, 2023

² Decision 24295-D02-2020: Salt Box Coulee Water Supply Company Ltd. 2020 Final Rates, Proceeding 24295, June 29, 2020.

28021-X0048	Final Joint Submission on Settlement – Salt Box	October 20, 2023
28021-X0049	Final Settlement Agreement – Salt Box	October 20, 2023
28021-X0059	Information response to AUC IR Round 2 - ENFORCE-AUC-2023NOV15-001 to 005	November 23, 2023
28021-X0060	Appendix A - Amounts owing to vacant lot owners	November 23, 2023

This proceeding remained ongoing at the end of this reporting period.

4.2 Proceeding 28170 – Energy Sustain Services Ltd.

On April 26, 2023, Enforcement staff filed an application requesting that the AUC initiate a phase 1 enforcement proceeding to determine whether Energy Sustain Services Ltd. and Zong Tang (the Respondents) have contravened the *Hydro and Electric Energy Act*, Rule 007: *Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations and Hydro Developments* and Rule 012: *Noise Control*. Enforcement staff alleged that:

- (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; and
- (b) The power plant operations exceeded the permissible sound levels specified in Rule 012.

An oral hearing was conducted on August 23, 2023, and in addition, Enforcement staff made the following submissions during this reporting period.

Table 2. Submissions by Enforcement staff

Exhibit	Title	Date
28170-X0021	AUC Enforcement staff involved	August 2, 2023
28170-X0023	Letter to AUC re reply submissions	August 11, 2023
28170-X0023	Enforcement Response to ESS	August 11, 2023
28170-X0026	Letter to AUC re August 23 2023 hearing	August 16, 2023
28170-X0027	G. Andrews CV	August 16, 2023
28170-X0031	AUC Enforcement investigation - Energy Sustain Services	August 23, 2023

This proceeding remained ongoing at the end of this reporting period.

4.3 Proceeding 26379 – Link Global Technologies Inc./Green Block Mining Corp.

Proceeding 26379 commenced on March 11, 2021, to consider an application filed by Enforcement staff regarding the conduct of Link Global Technologies Inc. Link Global later changed its name to Green Block Mining Corp. The submissions made by Enforcement staff between July and December of June 2023 are listed below.

Table 3. Submissions by Enforcement staff

Exhibit	Title	Date
26379-X0166	Phase 2 - Enforcement staff submission re audited financials	July 12, 2023
26379-X0170	Enforcement letter re process and deadline for hearing	August 22, 2023
26379-X0171	Enforcement letter re misfiling	August 22, 2023
26379-X0179	Letter re time extension to review new materials	September 13, 2023
26379-X0181	AUC Enforcement Staff - List of documents for oral hearing	September 27, 2023
26379-X0187	Notice that parties have reached a settlement	October 13, 2023
26379-X0189	Joint Submissions in support of settlement (Green Block)	October 31, 2023
26379-X0190	Link Global Settlement Agreement	October 31, 2023
26379-X0191	GREEN BLOCK Affidavit of Kevin Ma	October 31, 2023
26379-X0194	AUC Enforcement Staff - Response to Green Block letter	November 7, 2023
26379-X0197	Joint Response to IRs	November 23, 2023

This proceeding remained ongoing at the end of this reporting period.

5 Notices of specified penalty issued

The Commission issued 22 notices of specified penalty between July and December of 2023.

Table 4. Notices of specified penalty issued

Notices of specified penalty	Rule 003, Section 3.4.1(2) Billing errors	Rule 003, Section 3.4.1(3) Disconnections	Rule 003, Section 3.4.1(4) Credit referrals	Rules 021 and 028, Section 2.5(2) Incorrect drop codes	Rules 021 and 028, Section 7 Erroneous enrollments	Total penalty amounts	Amounts paid to customers
Direct Energy Marketing Limited		2			4	\$1,375	
Direct Energy Partnership			1		2	\$525	
ENMAX Energy Corporation	1		1	3	8	\$3,575	\$500
Total	1	2	2	3	14	\$5,475	\$500

5.1 Enforcement proceedings to consider disputed notices of specified penalty

Any party who is issued a specified penalty may dispute that specified penalty under Section 63.1 of the *Alberta Utilities Commission Act*. In such cases, Enforcement staff serve as the applicant in the proceeding and request an order from the Commission to confirm the specified penalty in dispute. Between July and December of 2023, no notices of specified penalty were disputed.

6 Closed matters

When considering whether to commence an enforcement action, Bulletin 2016-10 states that the Commission will have regard for the following: (1) if, based on the information obtained in the investigation, the occurrence of an alleged contravention appears reasonably likely to be proven

on a balance of probabilities, and (2) if the enforcement action is in the public interest. Between July and December of 2023, 72 investigations were closed because they did not meet both of these tests.

Table 5. Investigations closed by reason

