



AUC

Alberta Utilities Commission

Compliance and Enforcement Enforcement Report January to June 2024

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1 Summary

1. 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 January to June of 2024.

1.1 Role of Enforcement staff

2. Enforcement staff are responsible for investigating potential contraventions of AUC decisions, orders, rules and legislation under the jurisdiction of the AUC. Enforcement staff have processes and procedures in place to investigate complaints and referrals to ensure efficiency and consistency among investigations. Enforcement staff reduce regulatory burden by investigating complaints and resolving matters that would otherwise require formal proceedings.

3. The Executive Director of the Compliance and Enforcement Division¹ reviews the results of investigations and the recommendations of Enforcement staff, and determines whether:

- (a) a further investigation or an enforcement proceeding is required with respect to a complaint,
- (b) a specified penalty pursuant to Section 63.1 of the *Alberta Utilities Commission Act* should be imposed,² or
- (c) a resolution of an investigation through an informal resolution or a negotiated settlement is adequate.

1.2 Summary observations from this period

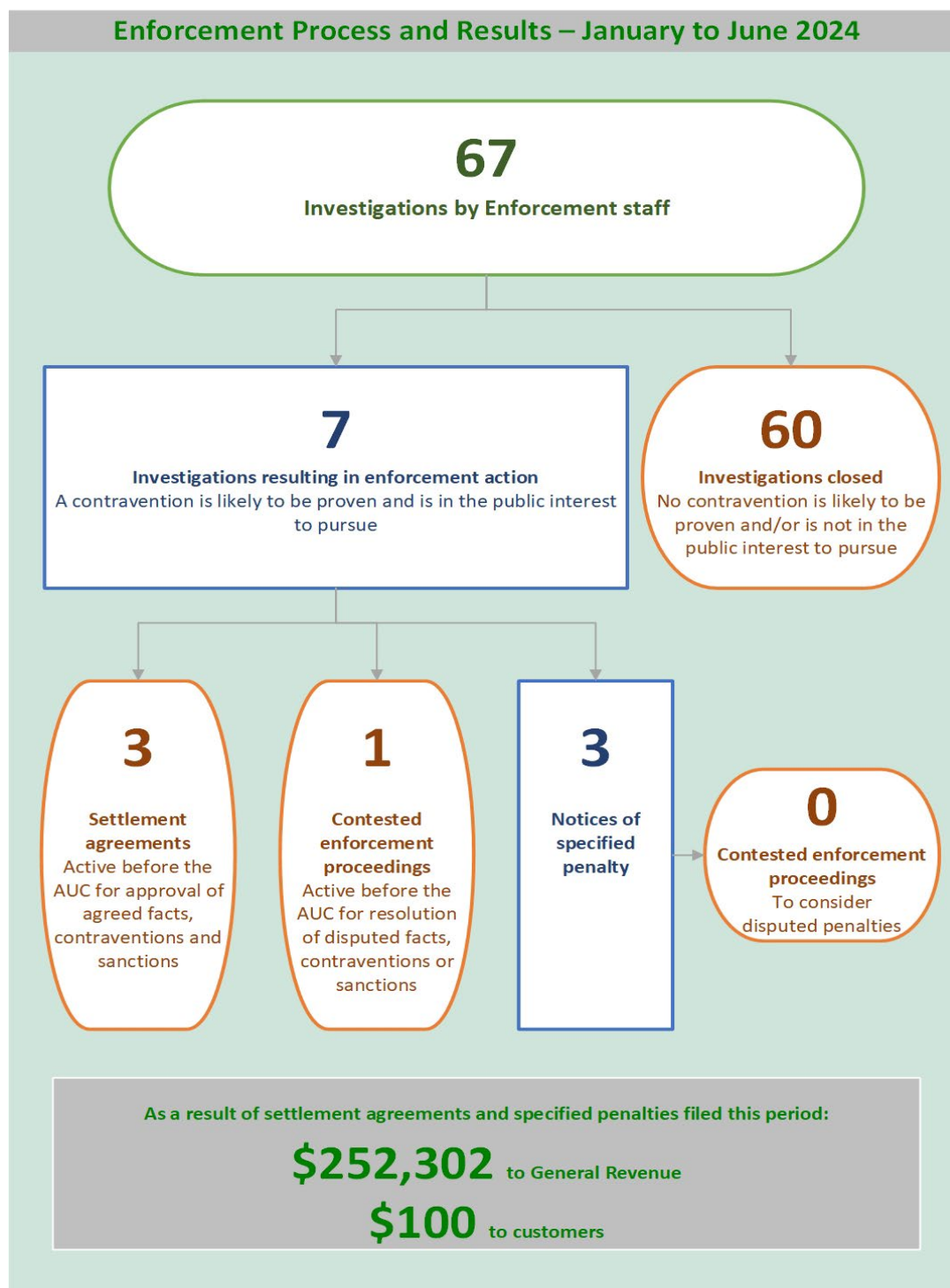
4. Between January and June of 2024, the Commission approved two settlement agreements filed by Enforcement staff. The total amount involved \$251,477 in administrative penalties for contraventions of the *Hydro and Electric Energy Act*. The cases concerned the unauthorized operation of power plants and were the result of investigations into noise complaints. Recent amendments to Rule 032: *Specified Penalties* allow the Executive Director of Compliance and Enforcement to issue specified penalties for noise complaints.

5. Enforcement staff also resolved 60 smaller investigations between January and June of 2024. In general, these investigations concerned land matters and the retail market. In addition, there were three specified penalties issued on energy retail matters.

¹ The Director of Compliance and Enforcement Division has the same delegated authorities as the Executive Director, Compliance and Enforcement. The pending retirement of the Executive Director, Compliance and Enforcement will not affect the day-to-day business operations of Enforcement functions.

² The Executive Director of the Compliance and Enforcement Division has the delegated authority to issue specified penalties.

6. Two notable settlement agreements, involving ATCO Electric Ltd.³ and Salt Box Coulee Water Company Ltd.,⁴ fall outside of this reporting period and will be reported in the subsequent period.



³ Proceeding 29109: Enforcement Staff of the Alberta Utilities Commission: Settlement Agreement with ATCO Electric Ltd., September 25, 2024.

⁴ Proceeding 28021: Alberta Utilities Commission Compliance and Enforcement: Phase 2 Enforcement Proceeding with Salt Box Coulee Water Supply Company Ltd., September 17, 2024.

2 Enforcement proceedings and key activities

7. A summary of the settlements and key activities that occurred during this period, are provided in this section.

2.1 Proceeding 28765 – Avex Energy Inc.

8. On January 5, 2024, Enforcement staff filed an application seeking approval of a settlement agreement reached with Avex Energy Inc. This followed an investigation by Enforcement staff into a complaint from a resident concerning excessive noise. Avex admitted that it did not have Commission approval to operate the power plant and a noise impact assessment demonstrated that it emitted excessive noise, violating Rule 012: *Noise Control*. In response to a request by Enforcement staff, Avex voluntarily shut down the power plant.

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

(a) From April 23, 2021, until December 22, 2021, 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.

10. Avex agreed to pay a total penalty of \$241,477 comprised of an administrative penalty of \$10,496 and a disgorgement of \$230,981 to nullify the value of gains acquired from unlawful operation of the power plant. Payment was to be made in installments. The settlement agreement was approved by the Commission on February 9, 2024, in Decision 28765-D01-2024.⁵

11. After this reporting period ended, Enforcement staff learned that Avex paid its first installment under the approved settlement agreement but had not paid any other installments. The Law Division is pursuing collection activities, and Enforcement staff are working with the Law Division to enhance the mechanics of how settlements occur.

2.2 Proceeding 28170 – Energy Sustain Services Ltd.

12. Enforcement staff had previously filed an application requesting that the AUC initiate a phase 1 enforcement proceeding to determine whether Energy Sustain Services Ltd. had contravened the *Hydro and Electric Energy Act* and Rule 012.

13. In Decision 28170-D01-2023,⁶ the Commission found that Energy Sustain Services had contravened Section 11 of the *Hydro and Electric Energy Act* by operating without an approval from February 12, 2022, until May 31, 2022. However, the Commission also found that Energy Sustain Services did not contravene Rule 012.

⁵ Decision 28765-D01-2024: Enforcement staff of the Alberta Utilities Commission Settlement Agreement with Avex Energy Inc., Proceeding 28765, February 9, 2024.

⁶ 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, December 12, 2023.

14. On April 8, 2024, Enforcement staff filed an application seeking approval of a settlement agreement reached with Energy Sustain Services, whereby it agreed to pay an administrative penalty of \$10,000 for contravening the *Hydro and Electric Energy Act*. The Commission approved that settlement agreement on May 7, 2024, in Decision 28170-D02-2024.⁷

2.3 Contested enforcement proceedings

15. 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.

16. During the period between January and June of 2024, Enforcement staff were engaged in one active contested enforcement proceeding.

3 Notices of specified penalty issued

17. Three specified penalties were issued between January and June of 2024.

Table 1. 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	Penalty amounts paid to General Revenue	Penalty amounts paid to customers
Total	2			1		\$825	\$100

4 Closed matters

18. When considering whether to commence an enforcement action, Bulletin 2016-10: *Practices regarding enforcement proceedings and amendments to AUC Rule 001: Rules of Practice* states that the Commission will have regard for the following:

- (a) 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
- (b) If the enforcement action is in the public interest.

Between January and June of 2024, 60 investigations were closed because they did not meet both of these tests.

⁷ Decision 28170-D02-2024: Enforcement Staff of the Alberta Utilities Commission, Settlement Agreement with Energy Sustain Service Ltd., Proceeding 28170, Application 28170-A002, May 7, 2024.

Table 2. Investigations closed by reason