



AUC

Alberta Utilities Commission

**Enforcement Report
January to June 2021**

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1 Summary

The Alberta Utilities Commission issues a report on compliance and enforcement activities twice per year. This report summarizes the Commission's compliance and enforcement results between January and June of 2021.

1.1 Role of Enforcement staff

AUC 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 Commission, Enforcement staff reduce regulatory burden by investigating complaints and resolving many enforcement matters that would otherwise require formal proceedings. A designated Commission member reviews the results of every investigation 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 imposed or, (3) a resolution of an enforcement matter through an informal resolution or negotiated settlement is adequate. Complaints and enforcement issues are addressed through a process which promotes efficiency as well as consistency and facilitates timely Commission member determinations on a steady and 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.

1.2 Summary observations from this period

The number of investigations was down as the complexity and duration of the matters under investigation increased and Enforcement staff focused on priority matters.

Between January and June of 2021, Enforcement staff resources were primarily directed at the investigation of: the bitcoin facility operations of Link Global Technologies Inc; two fires that occurred in Paintearth County; and a customer complaint concerning the safe operation and reliability of the electric distribution service and property damage that occurred at the customer's address.

Bitcoin facility operations of Link Global Technologies Inc.

Enforcement staff filed an application on March 12, 2021, with the Commission for the commencement of an enforcement proceeding with respect to the operation, by Link Global Technologies Inc., of gas power plants used to supply bitcoin facilities near the Greystone Manor community. The application asserted contraventions of Rule 012: *Noise Control*, 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*. Enforcement staff also filed a motion requesting the Commission to order Link Global to cease operation of the power plant.

The Commission initiated Proceeding 26379 and directed a two-stage proceeding; the first stage to determine whether Enforcement staff could prove the contraventions alleged in its application; the second, to consider the penalties to be imposed for any proven contraventions. Enforcement Order 26379-D01-2021 was issued March 19, 2021, shutting down the power plant operations during the nighttime period.

On May 21, 2021, Enforcement staff and Link Global jointly filed a statement of agreed facts and contraventions to expedite the Commission's consideration of stage one. This statement of agreed facts included an additional admission by Link Global that it had also been operating a second power plant near Kirkwall, without an approval from the Commission. The stage one decision was not released during this reporting period.¹ Stage two of Proceeding 26379 is ongoing.

Fires that occurred in Paintearth County

On June 28, 2021, Enforcement staff concluded an investigation into two fires that occurred near ATCO Electric Ltd. transmission lines 6L03 and 9L59 in March and April of 2021, respectively. The AUC has the authority to investigate fires under sections 2 and 6 of the *Hydro and Electric Energy Act*. In addition, each owner of a transmission facility must operate and maintain the transmission facility in a manner that is consistent with the safe, reliable and economic operation of the interconnected electric system pursuant to Subsection 39(1) of the *Electric Utilities Act*.

Enforcement staff examined (1) fault records provided by the Alberta Electric System Operator (AESO), (2) a third-party investigation report, and (3) responses by ATCO Electric regarding maintenance of both lines. This information supported a conclusion that contraventions regarding the safe operation of these transmission lines were unlikely to be proven, and the investigation was closed.

Safe operation and reliability of electric distribution service

On May 17, 2021, Enforcement staff concluded an investigation into a customer complaint concerning the safe operation and reliability of the electric distribution service provided by FortisAlberta Inc. and property damage that occurred at the customer's address. The customer had complained that repairs made to a splitter box by FortisAlberta had caused voltage issues and damage to her property. Enforcement staff reviewed information from the customer and from FortisAlberta, the splitter box configurations specified in FortisAlberta's *Service and*

¹ Decision 26379-D02-2021 was released August 19, 2021.

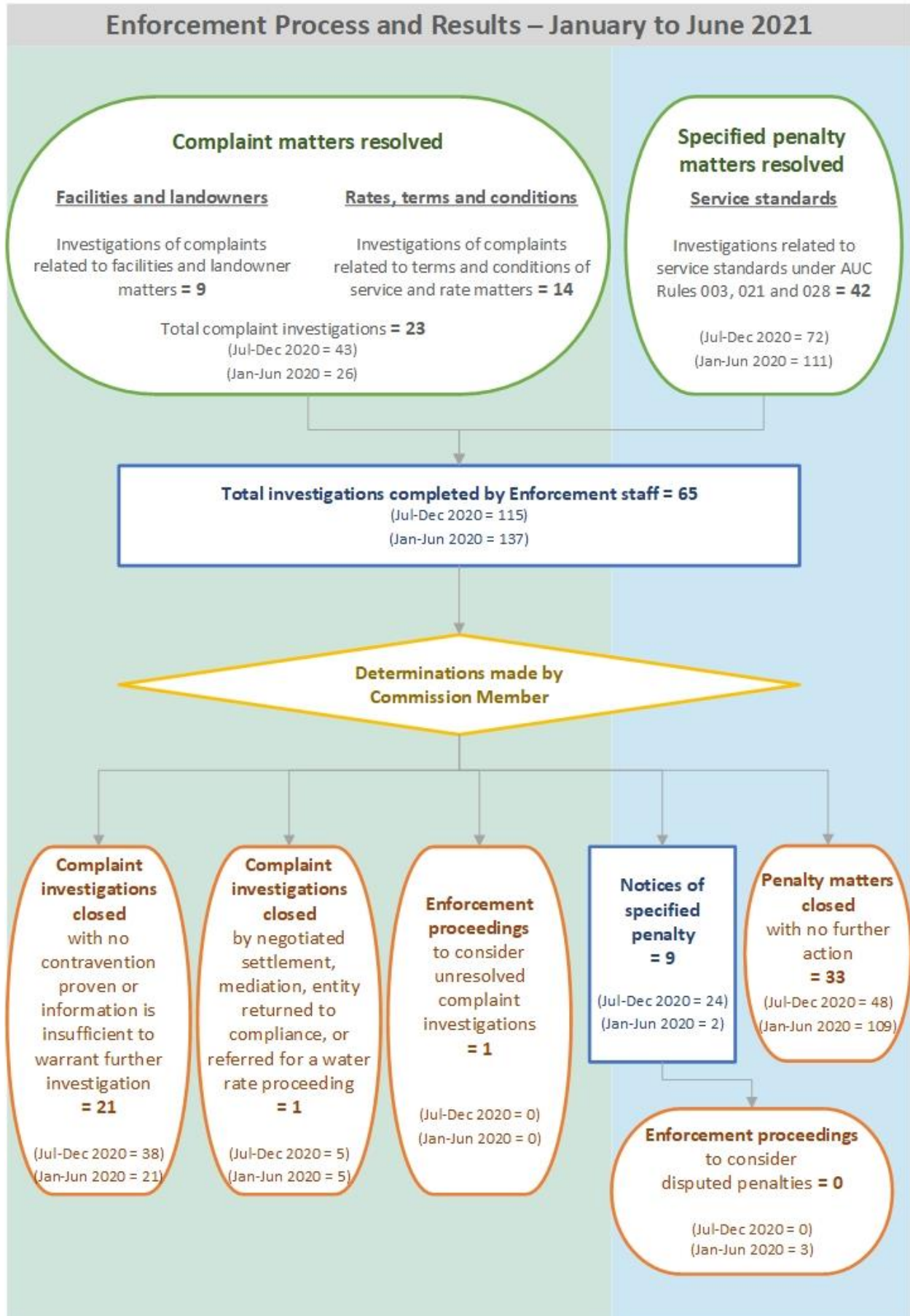
Metering Guide and evidence from an independent electrical inspector which suggested that the splitter box was not grounded and that a portion of cable was unsecured.

Following the attendance of two of its power line technicians at the site, FortisAlberta provided new information that clearly explained the customer's electric distribution service. Photographs were also provided demonstrating the proper installation of FortisAlberta's equipment and confirming the location of the failed compression splice on cable owned by the customer. Notwithstanding, FortisAlberta offered to install a new combined meter/breaker/splitter unit at no cost to the customer to address any residual safety concerns. As the proposed new service connection alleviated the customer's ongoing concerns with respect to the safety and reliability of her distribution service, Enforcement staff accepted FortisAlberta's proposal as a resolution to the matter.

In conjunction with the Utility Payment Deferral Program Act, the issuance of specified penalties during this period remained limited to certain contraventions

Under the *Utility Payment Deferral Program Act*, June 18, 2021, was the final date for repayment of any charges delayed through the Utility Payment Deferral Program. In support of this program, from March 18, 2020 to June 18, 2021, the Commission limited its consideration of specified penalties to contraventions that were not self-reported or that resulted in a disconnection greater than 24 hours.² As a result, the number of specified penalties issued during this reporting period was low relative to periods before March 18, 2020.

² Bulletin 2020-20: *Suspension of specified penalties program for self-reported contraventions*; Bulletin 2020-26: *AUC extends suspension of specified penalties program for self-reported contraventions to September 30, 2020.*



2 Enforcement process

Enforcement staff receive enforcement referrals from five sources:

- a) The Commission's Assistance and Information Services group.
- b) The Utilities Consumer Advocate.
- c) The AESO.
- d) Consumers, as complaints through enforcement@auc.ab.ca.
- e) Market participants, as self-reports.

Once a determination is made by a Commission member, Enforcement staff record the determination and with the assistance of legal counsel assigned to the enforcement team, prepare all documents necessary to execute the directed outcome. Potential outcomes include:

- a) Closure of complaints and allegations when the assessment of the matter reveals that no contravention can be proven on a balance of probabilities, or when insufficient information is available to warrant further investigation.
- b) Resolution of complaints and allegations by negotiated settlement, mediation or the entity in question voluntarily returning to a state of compliance.
- c) Referral of complaints to an enforcement proceeding if assessment of the matter reveals that contravention is likely be proven on a balance of probabilities and the complaint is unresolved. In an enforcement proceeding, the Commission may impose an administrative penalty and conditions.
- d) 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.
- e) Letters advising that no notice of specified penalty will be issued for contraventions of service standards under rules 003, 021 and 028 or where alleged contraventions are not proven.

For complaint matters, if Enforcement staff resolve a complaint 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 Commission's investigation and any conclusions or findings. Notices summarizing the investigations are posted on the [recent enforcement resolutions](#) page of the AUC website.

Investigations regarding water rates under Section 43 of the *Municipal Government Act* may also be referred for a proceeding.

Notices of specified penalty and letters advising of no penalty are redacted to remove the customer's personal information, and are posted on the [issued specified penalties](#) page of the AUC website.

Administrative penalties are paid into the General Revenue Fund as directed by the *Alberta Utilities Commission Act*. Unless otherwise directed, specified penalties are also paid into the General Revenue Fund. All or a portion of a specified penalty may be directed to be paid to a person. Enforcement staff track the payment of specified penalties and reconcile payments with the Department of Energy to ensure compliance with the Commission's orders.

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

- Investigating complaints.
- Investigating matters related to specified penalties.
- Serving as the applicant in enforcement proceedings related to complaints or specified penalties.

Enforcement staff have the onus of demonstrating on a balance of probabilities that a contravention has occurred. Enforcement staff and Commission staff adhere to the Commission protocols regarding the segregation of enforcement staff and adjudicative personnel outlined in Bulletin 2014-05: *Alberta Utilities Commission enforcement policy* and Bulletin 2016-10: *Practices regarding enforcement proceedings and amendments to AUC Rule 001: Rules of Practice*. Bulletin 2014-05 states that AUC enforcement staff and legal counsel, "will have no contact with staff assigned to assist the adjudication panel or the adjudication panel members other than through correspondence copied to all interested parties or through the public proceeding process."

3 Complaint investigations

The AUC regulates certain electric and gas utility service providers to ensure that customers receive safe and reliable service at just and reasonable rates. The AUC has oversight regarding the conduct of competitive retailers through the administration of retail market rules. It also ensures that electric facilities are built, operated and decommissioned in an efficient and environmentally responsible way. There are generally two categories of complaints:

- a) Facility and landowner complaints (which totaled 9, or 39 per cent, during this period).
- b) Terms and conditions of service and rate complaints (which totaled 14, or 61 per cent, during this period).

Table 1. Total complaint matters resolved

Complaint matters resolved July - December 2020	Facilities and landowners	Rates, and terms and conditions	Total
ATCO Electric Ltd.	1	1	2
ATCO Gas and Pipelines Ltd.	1	2	3
Enel Green Power Corporation	1		1
ENMAX Power Corporation		3	3
FortisAlberta Inc.	3	7	10
Link Global Technologies Inc.	1		1
Phoenix Land Services Inc.	1		1
Village of Edgerton		1	1
Windrise Wind LP	1		1
Total matters resolved	9	14	23

3.1 Complaint investigations by subject - facilities and landowners

Between January and June of 2021, Enforcement staff completed the investigation of nine complaints related to facility and landowner matters. This is a decrease from 21 investigations concluded in the second half of 2020.



Of the nine matters investigated, three were closed with the issuance of a letter. Of those three matters, one was resolved through the involvement of Enforcement staff and the other two were closed as the evidence did not demonstrate a contravention. The details of each of the three matters where a letter was issued are summarized below.

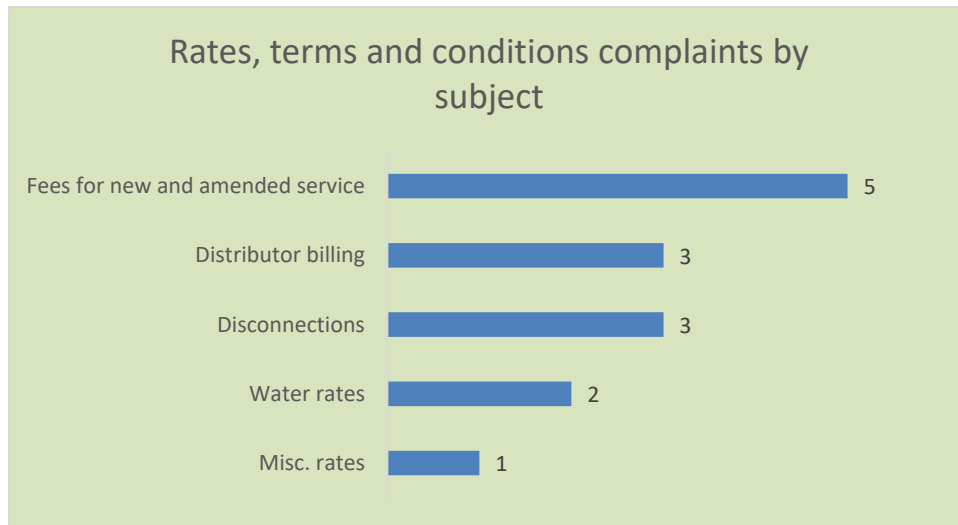
Table 2. Matters where a letter was issued – facility and landowner complaints

Date and subject	Complaint	Result
<p>May 17, 2021</p> <p>Property damage and safe operation and reliability of distribution service</p>	<p>A landowner complained that FortisAlberta had installed a compression splice which failed.</p>	<p>While FortisAlberta provided photo evidence demonstrating the proper installation of its own equipment and that the failed compression splice occurred on equipment owned by the landowner, it nevertheless offered to install a new combined meter/breaker/splitter unit at no cost to the customer to address any residual safety concerns. Enforcement staff understood that the proposed new service connection would alleviate the customer's ongoing concerns with respect to the safety and reliability of the distribution service, and accordingly, accepted FortisAlberta's proposal as a resolution to this matter.</p>
<p>June 28, 2021</p> <p>Fire</p>	<p>A landowner complained that two fires had occurred near transmission lines 6L03 and 9L59 owned by ATCO Electric in Paintearth County.</p>	<p>With respect to Transmission Line 6L03, based on the information available, Enforcement staff accepted ATCO Electric's report that: an avian streamer likely caused the ignition of the crossarm on pole 1720; ATCO Electric has deployed measures to mitigate avian contact on other lines; and, ATCO Electric will continue to monitor avian contact on Transmission Line 6L03 to determine whether such mitigation measures are warranted on this line.</p> <p>Concerning ATCO Electric's operation and maintenance of both transmission lines, the presence of a single fault on Transmission Line 6L03 on March 18, 2021, suggests that ATCO Electric's protection system functioned properly and prevented the line from unnecessarily reenergizing.</p> <p>There were no faults on Transmission Line 9L59 attributed to the fire reported on April 3, 2021.</p> <p>The inspection and maintenance schedule provided by ATCO Electric for both transmission lines falls within accepted benchmarking practices of other transmission line owners in North America.</p>
<p>June 28, 2021</p> <p>Wildlife</p>	<p>A landowner complained that construction of the Windrise Connection Project had occurred during the restricted activity period for ferruginous hawks and within the specified setback distance contrary to</p>	<p>Enforcement staff determined that the evidence would not demonstrate that a contravention of the mitigation measures relied on in Decision 25074-D02-2020 had occurred.</p> <p>The Wildlife Mitigation Plan relied on by the Commission required TransAlta to update and</p>

	<p>the mitigation measures relied on by the Commission in approving the project.</p>	<p>consult with AEP if changes were required. To accommodate delayed work during the restricted period TransAlta submitted a Mitigation Plan to AEP that stated that this would be mitigated by an environmental monitor with stop-work authority. AEP reviewed the plan and had no concerns.</p> <p>TransAlta provided a copy of the environmental monitor's log from March 15, to June 18, 2021. That log stated that two active ferruginous hawk nests had been identified, and recorded no instances where the raptors had displayed stress as a result of construction activities.</p>
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3.2 Complaint investigations by subject - rates, and terms and conditions

Between January and June of 2021, Enforcement staff concluded 14 investigations related to matters concerning rates, and terms and conditions of service. This is a decrease from 22 investigations concluded between July and December of 2020.



Of the fourteen investigations, 10 matters were closed without the issuance of a letter; and, after the resolution of the four remaining investigations, letters were issued and notices were posted to the Commission's website. Those four matters where a letter was issued are summarized below.

Table 3. Matters where letters were issued – rates, and terms and conditions

Date and subject	Complaint	Result
January 11, 2021 Fees for new and amended service	A customer alleged that ENMAX Power had overcharged for replacement of an electrical transformer.	Information provided to Enforcement staff by the complainant and ENMAX Power demonstrated that the transformer replacement was subject to a competitive procurement process under ENMAX Power's developer choice model, and that the complainant could have sought other quotes. Enforcement staff also reviewed the investment contribution by ENMAX Power for this project and determined that a contravention of its distribution tariff terms and conditions of service was unlikely to be proven.
February 4, 2021 Distributor billing	Owners of a condominium building submitted a complaint that they had been double charged by FortisAlberta from 2005 to 2019.	Enforcement staff determined that the building owners were overcharged due to the improper installation of the current transformer located on the customer's side of the service, which is the customer's responsibility. Accordingly, a contravention by FortisAlberta of its terms and conditions of service was unlikely to be proven.
April 12, 2021 Distributor billing	Borradaile REA complained that ATCO Electric had had incorrectly capitalized "drill test" costs for poles.	ATCO Electric indicated its intention to work with Borradaile REA to resolve this matter through the Contract Policy Committee established in the integrated operating agreement between the parties. Because there is a mechanism already in place to resolve this dispute, proceeding with an enforcement action was not recommended.

3.3 Enforcement proceedings arising from complaint investigations

During this period, Enforcement staff received a complaint from the Greystone Manor Residents Association in Sturgeon County concerning noise emitting from a nearby gas power plant. As a result of its investigation of that complaint, Enforcement staff concluded that Link Global Technologies Inc. had been operating the power plant without an approval from the Commission contrary to the *Hydro and Electric Energy Act* and Rule 007; and further, that power plant's operations had exceeded the permissible noise levels specified in Rule 012.

On March 12, 2021, Enforcement staff filed an application with the Commission for the commencement of an enforcement proceeding. As part of that application, Enforcement staff also filed a motion requesting the Commission to order Link Global to cease operation of the power plant.

The Commission initiated Proceeding 26379 and directed a two-stage proceeding; the first stage to determine whether Enforcement staff could prove the contraventions alleged in its application; the second, to consider the penalties to be imposed for any proven contraventions.

Enforcement Order 26379-D01-2021 was issued March 19, 2021, shutting down the power plant operations during the nighttime period. On May 21, 2021, Enforcement staff and Link Global jointly filed a statement of agreed facts and contraventions to expedite the Commission's consideration of stage one. This statement of agreed facts and contraventions included an additional admission by Link Global that it had also been operating a second power plant near Kirkwall, without an approval from the Commission. The stage one decision was not released during this reporting period. Stage two of Proceeding 26379 is ongoing.

4 Specified penalties

In response to the COVID-19 pandemic and the Utility Payment Deferral Program, the Commission issued a series of bulletins in which it announced that it would limit its consideration of specified penalties to contraventions that were not self-reported or that resulted in a disconnection greater than 24 hours.³ On October 23, 2020, the Commission announced that it would extend the time period for which it would exercise this forbearance until June 18, 2021, the date on which the repayment period concludes under the *Utility Payment Deferral Program Act*.⁴

4.1 Penalty matters resolved by entity and contravention

The Commission issued nine notices of specified penalty between January and June of 2021. In total, enforcement staff analyzed 42 events and the Commission issued letters advising of no penalty for 33 of those events. In comparison, between July and December of 2020, there were 72 investigations into penalty matters, resulting in 24 notices of specified penalty.

³ Bulletin 2020-20: *Suspension of specified penalties program for self-reported contraventions*; Bulletin 2020-26: *AUC extends suspension of specified penalties program for self-reported contraventions to September 30, 2020*.

⁴ Bulletin 2020-34: *AUC extends suspension of specified penalties program for certain self-reported contraventions to June 18, 2021*.

Table 4. Penalty matters resolved

Penalty matters resolved	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 matters resolved	Total penalties amounts
Matters where no penalty was issued							
Direct Energy Marketing Limited	1					1	
Encor by EPCOR		3				3	
EPCOR		24	4			28	
ENMAX					1	1	
Penalties issued							
Direct Energy Marketing Limited	1	1			1	3	\$3,500
Encor by EPCOR					1	1	\$175
EPCOR		4				4	\$175
ENMAX	1					1	\$1,200
Total	3	32	4	0	3	42	\$5,050

4.2 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 AUC to confirm the specified penalty in dispute. Between January and June of 2021, no notices of specified penalty were disputed.