



AUC

Alberta Utilities Commission

**Enforcement Report
July to December 2020**

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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 July and December of 2020 and provides general observations from the entire calendar year.

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 serve to reduce regulatory burden by investigating complaints and resolving enforcement matters that would otherwise require formal proceedings. Through a tailored process, a designated Commission member reviews the results of every investigation and, where possible, approves the resolution of matters through informal resolution or negotiated settlements. 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. Introduction of 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, including proceedings concerning a disputed notice of specified penalty, where enforcement staff serve as the applicant.

1.1 Observations from this period

While this report primarily relates to the second half of 2020, the completion of the year also allows for the observation of enforcement trends for the whole of the year.

The sector remained focused on meeting regulatory requirements during the COVID pandemic

Under the Utility Payment Deferral Program, customers were able to defer paying utility bills due between March 18, 2020 and June 18, 2020. The Utilities Consumer Advocate was the primary respondent to inquiries on this program. AUC enforcement staff received only two complaints in 2020 with respect to allegations that retailers were not following the payment deferral program.

The AUC adopted a flexible approach to enforcement as Alberta's electric and natural gas utilities, service providers and retailers adapted to the Utility Payment Deferral Program's requirements and the logistics of a new work-from-home environment. In the first half of 2020, the AUC delayed issuing a number of notices of specified penalty, and it continued to limit its

consideration of specified penalties to contraventions that were not self-reported or that resulted in a disconnection greater than 24 hours.

In 2020, enforcement staff resolved 69 complaint matters

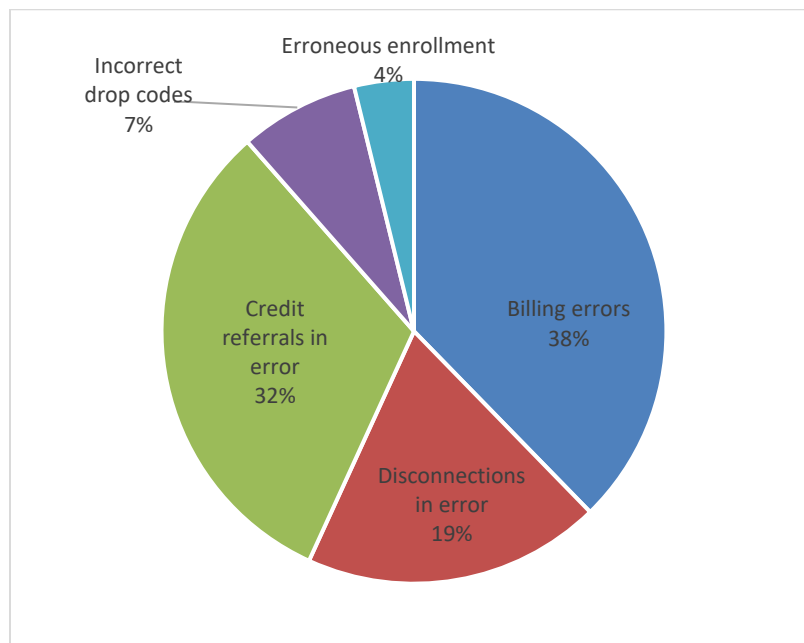
Of the 69 complaint matters resolved in 2020, 30 related to facility and landowner complaints and 39 related to rates, and terms and conditions of service. The two most common complaint types resolved in 2020 are below:

1. Fees for new and amended services totalled 11 (or 28 per cent of all rates-related complaints). These matters concerned customer complaints regarding project costs for utility service upgrades. In the majority of instances, customers also asserted that they were not provided an adequate breakdown of costs.
2. Property damage and reclamation totalled seven (or 23 per cent of all facility related complaints). These matters concerned landowner complaints regarding property damage arising from construction or maintenance conducted on a utility asset. Landowners often raised concerns regarding poor or no communication and an unwillingness of utility owners to engage in remediation.

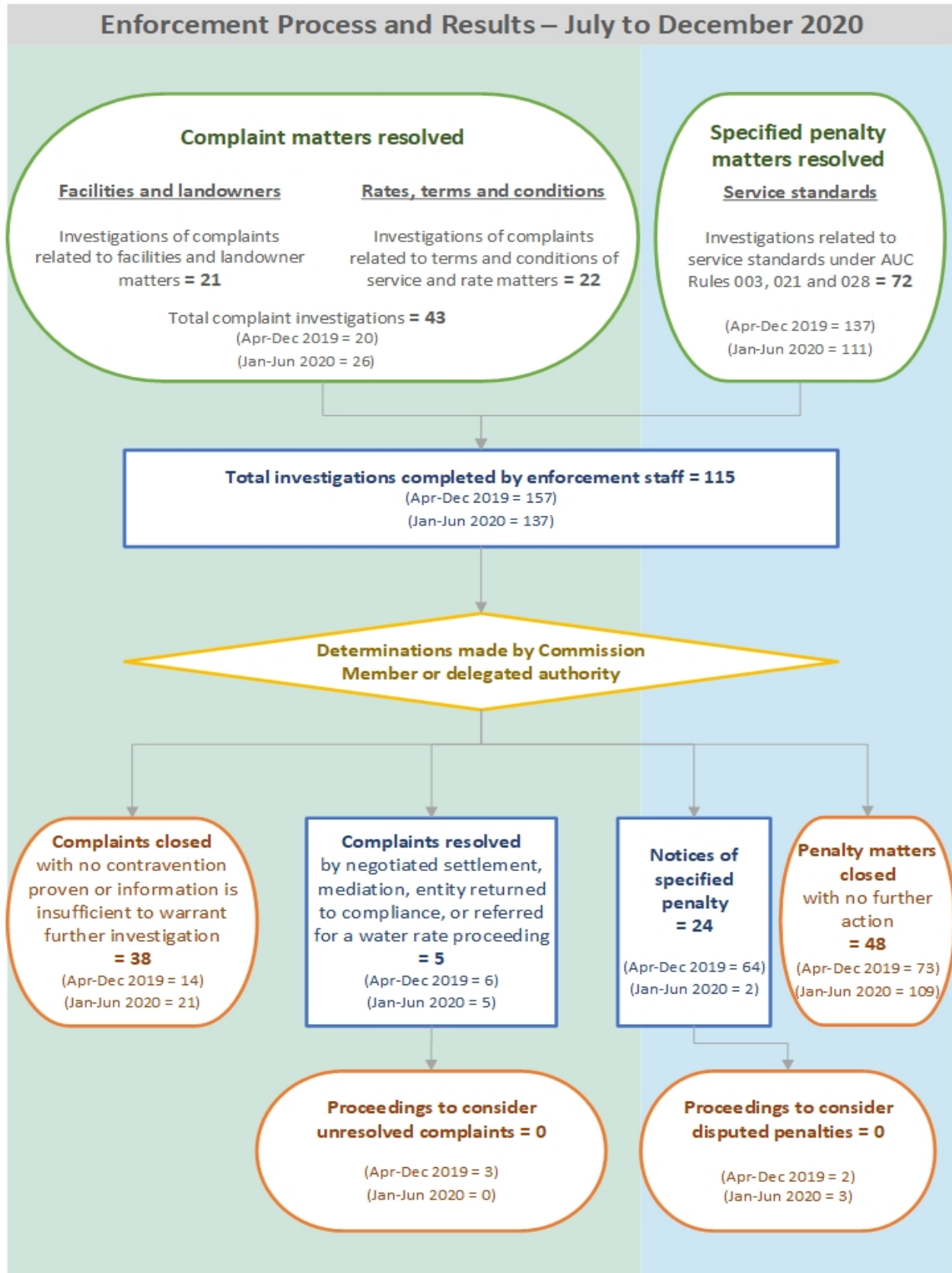
Enforcement staff expect that the number of complaints in both of these categories could likely be reduced with improved communication between the utility service provider/utility and the customer or landowner.

Enforcement staff resolved 183 penalty matters in 2020

In total, enforcement staff resolved 183 penalty matters in 2020. Of those matters, 26 resulted notices of specified penalty and 157 resulted in no penalty issued. Between July and December of 2020, the Commission issued 24 notices of specified penalty for contraventions that were not self-reported or resulted in a disconnection greater than 24 hours. Below are all penalty matters, resolved by subject, in 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 Alberta Electric System Operator (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. These matters may further result in an enforcement proceeding if unresolved, after which the Commission may impose an administrative penalty and conditions.
- 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 a proceeding if a notice of specified penalty is disputed.
- d) 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 customer 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 detail regarding each of the following activities carried out by enforcement staff.

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

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 and allegations that arise:

- a) Facility and landowner matters totaled 21 (49 per cent).
- b) Terms and conditions of service and rate matters totaled 22 (51 per cent).

Table 1. Total complaint matters resolved

Complaint matters resolved July - December 2020	Facilities and landowners	Rates, and terms and conditions	Total
Apex Utilities Inc.		4	4
AltaLink Management Ltd.	1		1
ATCO Electric Ltd.	1	2	3
ATCO Energy Ltd.		1	1
ATCO Gas and Pipelines Ltd.	4	2	6
Aura Power Renewables Ltd.	1		1
Capital Power Ltd.	2		2
Direct Energy Marketing Limited		2	2
ENMAX Power Corporation	2		2
EPCOR Energy Corporation	1	4	5
EQUS REA Ltd.	1		1
FortisAlberta Inc.	3	4	7
Just Energy Group Inc.		1	1
OK Hutterian Brethren	1		1
Town of Castor	1		1
Wild Rose REA Ltd.	1	1	2
Miscellaneous	2	1	3
Total matters resolved	21	22	43

3.1 Complaint investigations by subject - facilities and landowners

Between July and December of 2020, enforcement staff completed the investigation of 21 complaints related to facility and landowner matters. This is an increase from nine investigations concluded in the first half of 2020.



Letters were issued at the conclusion of six of these investigations and notices were posted to the Commission's website. The remaining 15 matters were closed without the issuance of a letter. Those six matters where a letter was issued are summarized below.

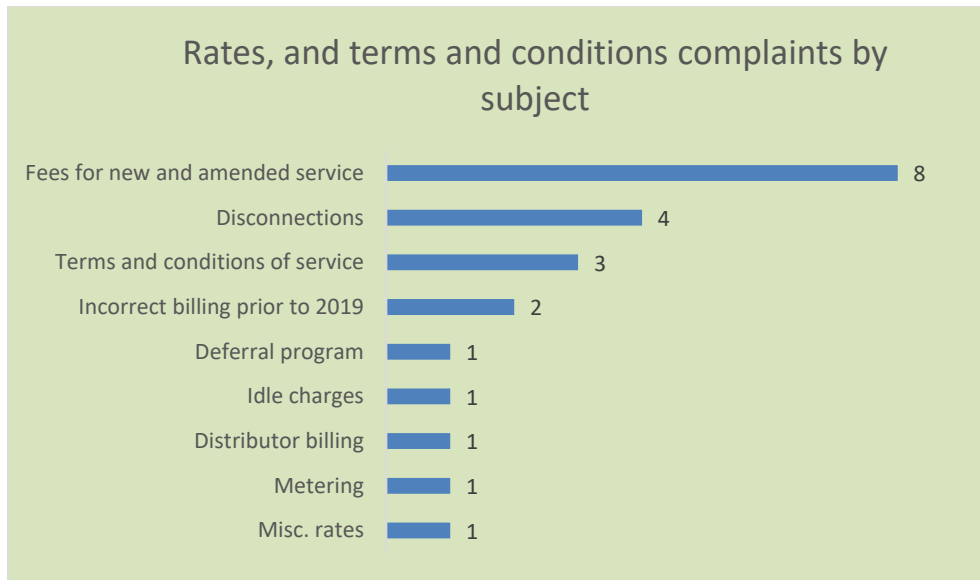
Table 2. Matters where a letter was issued – facility and landowner complaints

Date and subject	Complaint	Result
September 25, 2020 Property damage	A landowner complained that ENMAX had caused damage to a sewer line during the replacement of an underground cable.	This incident was the subject of civil litigation and ENMAX had provided additional information to the complainant concerning the matter that the complainant had previously requested. Given these developments, enforcement staff did not investigate further and this matter was closed.
October 23, 2020 Facility approval	A landowner complained that the testimony of a witness for Capital Power during the oral hearing in Proceeding 22563 had committed Capital Power to discussing the termination of an agreement signed by the landowner's mother, and that Capital Power had failed to meet this commitment. The landowner requested that the agreement be cancelled.	The <i>Alberta Utilities Commission Act</i> enables the Commission to enforce the orders or directions issued in its decisions. However, there is no order or direction in Decision 22563-D01-2018 requiring Capital Power to allow the landowner, as the power of attorney for his mother, to opt out of the agreement in issue. The substance of the landowner's complaint was put on the record in Proceeding 22563 and had already been considered by the Commission. As a result, this matter was closed.

November 4, 2020 Property damage	A landowner complained that damage had occurred to his property due to a broken neutral cable. The landowner asserted that the broken neutral was on a line owned by FortisAlberta, and that the line and related damage were its responsibility.	Based on the information gathered, the Commission concluded that the broken neutral was not FortisAlberta's electrical equipment and consequently, a contravention of FortisAlberta's terms and conditions of service was unlikely to be proven on a balance of probabilities.
November 5, 2020 Property damage	A landowner complained that soil erosion had occurred on his property as a result of overflow from a drainage area near the Tinchebray substation. The landowner also alleged that inadequate reclamation of a compacted area remains from a roadway that was created on his property during construction of the Halkirk to Tinchebray Transmission Project, which was approved by the Commission in Decision 2012-053.	It is expected that the remedies sought by the landowner will be affected by the outcomes of current Proceeding 25469. As that proceeding may be the most efficient means for the Commission to consider the landowner's concerns related to the Tinchebray substation, including any further design of the drainage area, enforcement staff suspended the investigation of this complaint.
December 9, 2020 Metering	The AESO referred a matter concerning a possible contravention by the OK Hutterian Brethren of the metering requirements found in Rule 021. The OK Hutterian Brethren operate four wind turbines that are connected to a distribution system as a single asset known as OKH1. Subsection 4.6.1(2) of Rule 021 states that all distribution generation sites must have interval metering.	A settlement agreement was reached between the AESO and the OK Hutterian Brethren to resolve the issue. A copy of the settlement agreement was provided to the Commission and, based on review of the terms of the agreement, the Commission has determined that it will take no further enforcement action concerning this matter.
December 9, 2020 Noise	A landowner submitted a complaint regarding noise emitting from an ENMAX transformer located at the customer's site.	In its investigation, AUC enforcement staff reviewed information from ENMAX and the customer that included measured noise levels from the site. As a resolution to this matter, ENMAX agreed to replace the distribution transformer and confirmed with the AUC when that work was completed.

3.2 Complaint investigations by subject - rates, and terms and conditions

Between July and December of 2020, enforcement staff concluded 22 investigations related to matters concerning rates, and terms and conditions of service. This is an increase from 17 investigations concluded between January and June of 2020.



After the resolution of nine of these investigations, letters were issued and notices were posted to the Commission's website. The remaining 12 matters were closed without the issuance of a letter. Those nine 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
July 30, 2020 Incorrect billing prior to 2019	A customer complained that Direct Energy had incorrectly billed her after she had cancelled her service, and then wrongfully referred her to a collection agency.	The customer stated that she had vacated the property on September 15, 2017, and was not responsible for any subsequent charges. Direct Energy asserted that the customer cancelled her service on March 16, 2018 by phone, and that the voice recorded during that call was the customer's. The Commission made repeated attempts to contact the customer to gather further information, without a response and the matter was closed.
August 7, 2020 Fees for new and amended services	A customer submitted a complaint regarding fees charged by ATCO Gas for the installation of two residential gas lines on his property.	ATCO Gas provided information which demonstrated that installation of the service lines required additional time and costs, and constituted an alteration to the customer's existing gas service. Enforcement staff concluded that the installation fees charged by ATCO Gas did not, on a balance of probabilities, contravene the ATCO Gas terms and conditions of service.
August 7, 2020 Incorrect billing prior to 2019	A customer complained that Direct Energy had billed them for an incorrect site from September 2015 to December 2016, which then perpetuated incorrect billing	Direct Energy cooperated fully with the investigation by enforcement staff and admitted to the error. As a resolution to this matter, Direct Energy agreed to repay the

	when the customer switched to another retailer.	customer the difference owing between the correct and incorrect sites.
October 27, 2020 Fees for new and amended services	A customer submitted a complaint regarding a customer contribution fee quote from Apex Utilities Inc. for gas service. The customer disputed the reasonableness of the quoted contribution amount and the level of detail provided to support the contribution amount.	Enforcement staff concluded that the installation fees quoted by Apex Utilities do not, on a balance of probabilities, contravene its Natural Gas Utility Service Rules or Special Charges Schedule. Apex Utilities demonstrated that it had worked with the customer in good faith, including contacting him when a future project could serve his needs and expanded the scope of its project to accommodate the customer's request to replace all lines on his property. Apex Utilities' proposal provided the customer with a contribution amount that was a tenth of the original cost to provide his initial service request. It could not be demonstrated on a balance of probabilities that the contribution proposal was unreasonable.
October 27, 2020 Disconnection	Enforcement staff concluded an investigation into a complaint regarding the permanent disconnection of gas service. On September 15, 2020, Apex Utilities informed its customer that their gas service would be permanently disconnected as a result of an altercation involving the customer and an Apex Utilities technician.	Statements made by the customer, the witness and the Apex Utilities technician differed on the details of the altercation. There was sufficient information common to each statement to support a conclusion that a wrongful disconnection of the customer's site contrary the Apex Utilities Natural Gas Utility Service Rules would not be proven on a balance of probabilities.
October 29, 2020 Deferral program	A customer complained that their site was de-enrolled by Just Energy. The customer stated that they were making regular payments to Just Energy but were de-enrolled without notice on March 25, 2020.	The information provided by Just Energy and the customer demonstrated that the customer was in arrears prior to commencement of the deferral period on March 18, 2020. As a result, enforcement staff concluded that a contravention was unlikely to be proven on a balance of probabilities and this matter was closed.
October 30, 2020 Fees for new and amended services	A customer submitted a complaint regarding construction costs quoted by ATCO Electric for the conversion of a power line adjacent to his property from overhead to underground. The landowner asserted that the costs of the conversion were too high, and that due to the safety benefits, ATCO Electric should pay for a portion of those costs.	The customer's responsibility for costs associated with converting a power line to underground service are explicitly stated in ATCO Electric's terms and conditions of service. Enforcement staff concluded that ATCO Electric charging such costs to the landowner would not be proven, on a balance of probabilities, to contravene its terms and conditions of service.
November 10, 2020 Disconnection	The Utility Consumer Advocate reported that ATCO Energy had de-enrolled, rather than de-energized, a customer that had requested that his gas service be	Pursuant to Subsection 63(1) of the <i>Alberta Utilities Commission Act</i> , the Commission may initiate a proceeding to determine whether a person has contravened a

	cancelled. The basis for the UCA's position was an audio recording of a phone call between the customer and an ATCO Energy agent. ATCO Energy credited the customer for consumption charges, however he was required to pay for distribution charges.	Commission rule. In this case, enforcement staff recommended that a proceeding not be commenced on that basis that it would not be in the public interest. The recommendation was accepted by the Commission. Notwithstanding, it is expected that ATCO Energy will take the necessary steps to prevent this issue from re-occurring in future.
November 12, 2020 Distributor billing	A customer complained that that FortisAlberta had incorrectly charged him a farm rate since his service was installed in 2007. The customer requested that his rate class be retroactively switched to a residential rate and that he be refunded any difference.	The contract signed by the customer supports a conclusion that he agreed to a 25-kVA farm service in 2007. FortisAlberta's terms and conditions of service allow for the application of a different rate if requested by the customer. The information provided in the investigation states that the customer first complained about his service rate to FortisAlberta in October of 2016. As a resolution, FortisAlberta offered a rate change to take retroactive effect as of October 2016, provided that a land use declaration form is signed.

4 Specified penalties

In response to the COVID-19 pandemic and 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.¹ On October 23, 2020, the Commission announced that it would extend the time period for which it would exercise this forbearance for specified penalties until June 18, 2021, the date on which the repayment period concludes under the *Utility Payment Deferral Program Act*.²

4.1 Penalty matters resolved by entity and contravention

The Commission issued 24 notices of specified penalty between July and December 2020. In total, enforcement staff analyzed 72 events and the Commission issued letters advising of no penalty for 48 those events. In comparison, between January and June of 2020, there were 111 investigations into penalty matters resulting in two no-penalty letters.

¹ 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 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	Rule 021 and 028, Section 2.5(2) Incorrect drop code	Rule 021 and 028, Section 7 Erroneous enrollment	Total matters resolved	Total penalty amount
Matters where no penalty was issued							
Apex Utilities		2				2	
Direct Energy Marketing Limited	11	2	8			21	
Direct Energy Partnership	3		4			7	
Encor by EPCOR				1		1	
EPCOR		1	6			7	
ENMAX	8			1		9	
Sponsor Energy				1		1	
Penalties issued							
ATCO Energy				5		5	\$5,500
Campus Energy				2		2	\$1,000
Direct Energy Marketing Limited	5		4			9	\$12,375
Encor by EPCOR	2			1		3	\$2,350
EPCOR		4				4	\$1,450
ENMAX				1		1	\$350
Total	29	9	22	12	0	72	\$21,025

5 Enforcement of specified penalty proceedings

Any party who is issued a specified penalty may dispute that specified penalty under Section 63.1 of the *Alberta Utilities 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. 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](#)³ and [Bulletin 2016-10: Practices regarding enforcement proceedings and amendments to AUC Rule 001: Rules of Practice](#).⁴

Between July and December of 2020, no notices of specified penalty were disputed.

³ 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.”

⁴ Bulletin 2016-10 states that “[t]he assigned enforcement staff will have no contact regarding the investigation and the proceeding with the Commission division considering the proceeding or the staff assisting the division except through the public record.”