

# Review of Commission Decisions

These rules as amended were approved by the Alberta Utilities Commission on May 6, 2021, and apply to review and variance applications filed on or after June 15, 2021.

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## 1 Definitions

In these rules,

- (a) “Commission” means the Alberta Utilities Commission;
- (b) “decision” includes a decision, order, costs order, licence, permit, approval and administrative penalty issued by the Commission under the *Alberta Utilities Commission Act* or any other enactment or rule under the jurisdiction of the Commission.

## 2 Commission review on its own motion

- (1) Notwithstanding sections 3 to 5 of these rules, the Commission may review a decision, in whole or in part, on its own motion at any time for any reason.

## 3 Application to review a decision

- (1) Subject to subsection 3(2), a person who is directly and adversely affected by a decision may file an application for review of that decision.
- (2) A person who was not a party to the proceeding that gave rise to the decision must obtain leave of the Commission before it files an application for review under subsection 3(1).
- (3) An application for review of a decision must be filed within 30 days of the issuance of the decision, unless otherwise authorized by the Commission.

## 4 Contents of a review application

- (1) An application for a review must:
  - (a) Be in writing and no longer than 15 pages double spaced, unless otherwise authorized by the Commission.
  - (b) Set out the facts relevant to the application.
  - (c) Describe how the review applicant’s rights are, or may be directly and adversely affected by the decision.
  - (d) Set out the grounds for the application, as described in subsections 5(1)(a), (b), (c) or (d) of these rules.
  - (e) Describe the nature of the prejudice or damage that has resulted or will result from the decision and the remedy sought.

- (f) If an applicant fails to comply with these requirements, the Commission may make any order that the Commission considers necessary, including rejecting the application without further process.
- (2) Unless otherwise authorized by the Commission, any reply submissions must be in writing and no longer than seven pages double spaced.

## 5 Grounds for review and granting of review

- (1) The Commission may grant an application for review of a decision, in whole or in part, where it determines that the review applicant has demonstrated:
  - (a) The Commission made an error of fact, or mixed fact and law where the legal principle is not readily extricable, which is material to the decision and exists on a balance of probabilities.
  - (b) There are previously unavailable facts material to the decision, which:
    - (i) existed before the decision was issued,
    - (ii) were not placed in evidence or identified in the original proceeding, and
    - (iii) the review applicant, exercising reasonable diligence, could not have discovered at the time.
  - (c) There are changed circumstances material to the decision, which occurred since its issuance.
  - (d) For a decision on an application for a hydro project, power plant, transmission line or gas utility pipeline, that the decision on the initial application may directly and adversely affect the review applicant's rights, and:
    - (i) the decision was made without a hearing or other proceeding, or
    - (ii) a hearing was held and notice was not given to the person.
- (2) The Commission may exercise its discretion to grant an application for review with or without a hearing.

## 6 Separate and combined review and variance proceedings

- (1) Unless otherwise directed by the Commission, an application for review of Commission decisions is considered in two stages. At the first stage, the

Commission will determine the preliminary issue of whether a review should be granted, in whole or in part. Where a review is granted, the application will move to a second stage in which the Commission shall issue a notice of hearing for the variance proceeding which will be held in accordance with the Commission's rules of practice. In this proceeding, the Commission will determine whether its earlier decision should be confirmed, rescinded or varied.

- (2) Notwithstanding subsection 6(1), the Commission may, with or without notice, review and confirm, rescind or vary the decision in a single proceeding, if in the Commission's opinion it is reasonable and practical to do so.