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ALBERTA REGULATION 58/2015

**Electric Utilities Act
Gas Utilities Act**

CODE OF CONDUCT REGULATION

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**Part 1
Interpretation**

Interpretation

1(1) In this Regulation,

(a) “affiliated provider”

(i) in respect of a distributor means

(A) an affiliated electricity retailer or affiliated gas retailer of the distributor,

(B) a regulated rate supplier that is authorized by the distributor to provide regulated energy services,

and

(ii) in respect of a regulated rate supplier means an affiliated electricity retailer or affiliated gas retailer of the regulated rate supplier;

(b) “auditor” means an auditor appointed under section 39;

- (c) “compliance plan” means a compliance plan approved under section 31, as amended from time to time;
- (d) “customer”
 - (i) in respect of the electricity market means customer as defined in the *Electric Utilities Act*, and
 - (ii) in respect of the natural gas market means customer as defined in the *Gas Utilities Act*;
- (e) “customer information” means information about a customer that
 - (i) is uniquely associated with the customer,
 - (ii) could be used to identify the customer, or
 - (iii) is provided by the customer to a distributor, a regulated rate supplier or a retailer;
- (f) “distributor”
 - (i) in respect of the electricity market means an owner of an electric distribution system, but in the case of an entity that carries on both the business of an owner of an electric distribution system and the business of a regulated rate provider does not include the entity when carrying on the business of a regulated rate provider, and
 - (ii) in respect of the natural gas market means a gas distributor, but in the case of an entity that carries on both the business of a gas distributor and the business of a default supply provider does not include the entity when carrying on the business of a default supply provider;
- (g) “electricity market” means market as defined in the *Electric Utilities Act*;
- (h) “energy services”
 - (i) in respect of the electricity market means electricity services, and
 - (ii) in respect of the natural gas market means gas services or gas distribution services;
- (i) “fair market value” means the price available in an open and unrestricted market between informed and prudent

parties acting at arm's length and under no compulsion to act, expressed in terms of money;

- (j) "financial transaction" includes a loan agreement, a grant of security, a guarantee and any other similar arrangement for obtaining funds or credit;
- (k) "Market Surveillance Administrator" means the corporation continued by section 32 of the *Alberta Utilities Commission Act*;
- (l) "natural gas market" means natural gas market as defined in section 31 of the *Alberta Utilities Commission Act*;
- (m) "provide" includes sell;
- (n) "regulated energy services"
 - (i) in respect of the electricity market means electricity services the costs of which are recoverable under a tariff referred to in section 102 or 103 of the *Electric Utilities Act* that has been approved, and
 - (ii) in respect of the natural gas market means
 - (A) gas services the costs of which are recoverable under a default rate tariff, or
 - (B) gas distribution services the costs of which are recoverable under a distribution tariff;
- (o) "regulated rate supplier"
 - (i) in respect of the electricity market means a regulated rate provider, and
 - (ii) in respect of the natural gas market means a default supply provider;
- (p) "regulated rate tariff"
 - (i) in respect of the electricity market means a tariff referred to in section 103 of the *Electric Utilities Act* that has been approved, and
 - (ii) in respect of the natural gas market means a default rate tariff;
- (q) "retail energy services"
 - (i) in respect of the electricity market means retail electricity services, and

- (ii) in respect of the natural gas market means retail gas services;
- (r) “retail tariff” means a tariff for retail energy services;
- (s) “retailer”
 - (i) in respect of the electricity market means retailer as defined in the *Electric Utilities Act*, and
 - (ii) in respect of the natural gas market means retailer as defined in the *Gas Utilities Act*;
- (t) “tariff” means a document that sets out
 - (i) rates for energy services, and
 - (ii) terms and conditions that apply in respect of energy services;
- (u) “terms and conditions”, in respect of a tariff, includes the standards, classifications, regulations, practices and measures that apply to energy services provided under the tariff.

(2) If a distributor, regulated rate supplier or retailer has made arrangements under which another person performs any or all of the functions of the distributor, regulated rate supplier or retailer, a reference in this Regulation to distributor, regulated rate supplier or retailer in respect of any of those functions is also a reference to that person.

Affiliated electricity retailer and affiliated gas retailer defined

2(1) For the purposes of the *Electric Utilities Act* and the *Gas Utilities Act*,

- (a) “affiliated electricity retailer” means a retailer that is an affiliate of
 - (i) an owner of an electric distribution system, or
 - (ii) the regulated rate provider of an owner of an electric distribution system;
- (b) “affiliated gas retailer” means a retailer that is an affiliate of
 - (i) a gas distributor, or
 - (ii) the default supply provider of a gas distributor.

(2) For the purposes of subsection (1), a retailer is an affiliate of an owner of an electric distribution system, a gas distributor, a regulated rate provider or a default supply provider

(a) if the retailer

- (i) is a corporation of which the owner of the electric distribution system, gas distributor, regulated rate provider or default supply provider legally or beneficially owns or controls, directly or indirectly,
 - (A) at least 10% of the voting shares or securities that are convertible into at least 10% of the voting shares, or
 - (B) an exercisable option or right to purchase at least 10% of the voting shares or securities that are convertible into at least 10% of the voting shares,
- (ii) is a member of a joint venture with the owner of the electric distribution system, gas distributor, regulated rate provider or default supply provider,
- (iii) is in a partnership with the owner of the electric distribution system, gas distributor, regulated rate provider or default supply provider, including, without limitation, a general partner of a limited partnership,
- (iv) shares office space or office equipment with the owner of the electric distribution system, gas distributor, regulated rate provider or default supply provider,
- (v) accesses or uses the computer system or information system of the owner of an electric distribution system, gas distributor, regulated rate provider or default supply provider, or
- (vi) employs or engages persons jointly with the owner of the electric distribution system, gas distributor, regulated rate provider or default supply provider,

or

- (b) if another person legally or beneficially owns or controls, directly or indirectly, at least a 10% interest in each of the retailer and the owner of the electric distribution system, gas distributor, regulated rate provider or default supply provider, by way of voting shares, securities that are

convertible into voting shares, an exercisable option or right to purchase voting shares, or securities that are convertible into voting shares, or otherwise.

Part 2 Conduct and Business Practices

Conduct

- 3(1)** Each distributor, regulated rate supplier and retailer shall
- (a) conduct itself and its activities in compliance with this Regulation, and
 - (b) ensure that any person it has authorized to perform functions on its behalf complies with this Regulation with respect to those functions.
- (2)** Each distributor, regulated rate supplier and affiliated provider shall conduct itself and its activities in compliance with its compliance plan.

Division 1 Customers

Tying prohibited

- 4(1)** No distributor or regulated rate supplier shall make the provision of regulated energy services to a customer conditional on the customer acquiring any other goods or services from a retailer.
- (2)** No distributor, regulated rate supplier or retailer shall represent that the provision of regulated energy services to a customer is conditional on the customer acquiring any other goods or services from a retailer.

Transfer of customers

- 5** No distributor or regulated rate supplier shall
- (a) transfer a customer to a retailer, or
 - (b) transfer a customer from a regulated rate tariff to a retail tariff

without the customer's consent.

Prohibited representation

- 6** No distributor, regulated rate supplier or retailer shall represent that the customers of a regulated rate supplier or a retailer receive

treatment from the distributor or regulated rate supplier that is different from the treatment received by any other customers.

Advertising

7(1) If either the name or logo of an affiliated provider of a distributor or regulated rate supplier is similar to the name or logo of the distributor or regulated rate supplier, the affiliated provider shall, in accordance with this section, include the following statement on its website and in any advertising that markets energy services:

All customers are free to purchase natural gas services from the default supply provider or from a retailer of their choice and to purchase electricity services from the regulated rate provider or from a retailer of their choice. The delivery of natural gas and electricity to you is not affected by your choice. If you change who you purchase natural gas services or electricity services from, you will continue receiving natural gas and electricity from the distribution company in your service area. For a current list of retailers you may choose from, visit www.ucahelps.gov.ab.ca or call 310-4822 (toll free in Alberta).

(2) An entity, including a rural electrification association, that carries on both the business of a distributor or regulated rate supplier and the business of a retailer shall, in accordance with this section, include the following statement on its website and in any advertising that markets energy services:

All customers are free to purchase natural gas services from the default supply provider or from a retailer of their choice and to purchase electricity services from the regulated rate provider or from a retailer of their choice. The delivery of natural gas and electricity to you is not affected by your choice. If you change who you purchase natural gas services or electricity services from, you will continue receiving natural gas and electricity from the distribution company in your service area. For a current list of retailers you may choose from, visit www.ucahelps.gov.ab.ca or call 310-4822 (toll free in Alberta).

(3) In the case of a website, and in the case of written advertising that markets energy services that is mailed or emailed to a customer or placed on the internet, the statement referred to in subsection (1) or (2) must be

- (a) on the main page of the website, if applicable,
- (b) on the first page of the written advertising, if applicable,
- (c) in at least 12-point bold type, and

- (d) in a colour that contrasts with the background.

Meetings between distributors or regulated rate suppliers and retailers and customers

8 Each distributor and regulated rate supplier shall make a reasonable effort to be available equally to all retailers for joint meetings with the retailer and the retailer's customers.

**Division 2
Customer Information**

Confidentiality of customer information

9 No distributor, regulated rate supplier or retailer, and no officer, employee, contractor or agent of a distributor, regulated rate supplier or retailer, shall disclose customer information except as permitted by section 10.

Disclosure of customer information

10(1) A distributor, regulated rate supplier or retailer, or an officer, employee, contractor or agent of a distributor, regulated rate supplier or retailer, may disclose customer information if

- (a) the customer has consented to the disclosure of the information in accordance with subsection (2),
- (b) the disclosure is permitted by subsection (3), or
- (c) the disclosure is otherwise authorized under
 - (i) the *Freedom of Information and Protection of Privacy Act*, in the case of a distributor, regulated rate supplier or retailer to which that Act applies, or
 - (ii) the *Personal Information Protection Act*, in the case of a distributor, regulated rate supplier or retailer to which that Act applies.

(2) For the purposes of this section, the consent of a customer to the disclosure of customer information about the customer has no effect unless

- (a) the consent is in writing or electronic or recorded form,
- (b) the customer information that is authorized to be disclosed is itemized in the consent,
- (c) the consent sets out the period of time that the consent is in effect, and

- (d) in the case of a disclosure of customer information to a retailer, the consent indicates
 - (i) the retailer or retailers to which the customer information may be disclosed, or
 - (ii) that the customer information may be disclosed to any or all retailers.

(3) Customer information about a customer may be disclosed without the customer's consent

- (a) if the customer information is contained in aggregated information that is disclosed in accordance with section 13,
- (b) by a distributor to a default supplier appointed by the distributor under the *Roles, Relationships and Responsibilities Regulation, 2003* (AR 169/2003),
- (c) for the sole purpose of preventing an interruption of energy services,
- (d) to the customer's retailer or regulated rate supplier,
- (e) for the purpose of an audit under Part 4,
- (f) for the purpose of a court proceeding or a proceeding before a quasi-judicial body to which the customer is a party,
- (g) for the purpose of complying with a subpoena, warrant or order issued or made by a court, person or body having jurisdiction to require or compel the production of information or with a rule of court that relates to the production of information,
- (h) to a peace officer for the purpose of investigating an offence or to assist in an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result,
- (i) if the disclosure is required by law or by an order of a government agency having jurisdiction over a distributor, regulated rate supplier or retailer,
- (j) to the Market Surveillance Administrator or a person authorized by the Market Surveillance Administrator,
- (k) to the Commission or a person authorized by the Commission,

- (l) for the purpose of billing the customer, or
- (m) for the purpose of collecting the customer's unpaid bill.

Conditions on disclosure of customer information

11(1) Where a distributor or regulated rate supplier receives a written or electronic request for customer information about a customer from a retailer and the consent of the customer in accordance with section 10(2) to the disclosure of that customer information, the distributor or regulated rate supplier shall disclose the customer information to the retailer within 7 days after receiving the request or the consent, whichever is later.

(2) If, in the consent referred to in subsection (1), the customer consents to the disclosure of customer information about that customer to 2 or more retailers, the distributor or regulated rate supplier shall disclose the customer information to those retailers at the same time and in the same form and manner.

(3) Subject to subsections (1) and (2), no distributor or regulated rate supplier shall inform any person of the existence of a request, consent or disclosure referred to in subsection (1) or (2).

Historical electricity or gas usage

12(1) Where a distributor or regulated rate supplier receives a request from a retailer in writing or electronic form for disclosure of a customer's historical electricity or gas usage information, the distributor or regulated rate supplier shall, within 3 business days after receiving the request, disclose to the retailer the customer's electricity usage information or gas usage information for the previous 12-month period.

(2) A retailer must not request a customer's historical electricity or gas usage information without the customer's consent.

Aggregated customer information

13(1) No distributor or regulated rate supplier shall make aggregated information about its customers available to a retailer except in accordance with subsection (2).

(2) A distributor or regulated rate supplier who makes aggregated information about its customers available to a retailer

- (a) shall ensure that the information that is made available has been aggregated to a degree that the information of any particular customer or retailer cannot be readily identified,

- (b) shall place on its website a notice containing a clear description of the aggregated information and the price for obtaining the aggregated information at least 24 hours before the aggregated information is made available to a retailer, and shall keep the notice on its website for at least 30 days after the aggregated information is made available,
- (c) shall make the aggregated information available to all retailers for the same price and under the same terms and conditions, and
- (d) shall not charge more for the aggregated information than the costs incurred by the distributor or regulated rate supplier in aggregating the customer information and making it available.

Division 3 Business Practices of Distributors and Regulated Rate Suppliers

Equal treatment of retailers

14(1) Unless otherwise permitted by another enactment, no distributor or regulated rate supplier shall in the terms and conditions that apply to the regulated energy services provided by the distributor or regulated rate supplier

- (a) give preferential treatment to an affiliated provider of the distributor or regulated rate supplier or to an affiliated provider's customers, or
- (b) discriminate against any retailer or against the customers of any retailer.

(2) Each distributor and regulated rate supplier shall inform all retailers at the same time and in the same manner of changes the distributor or regulated rate supplier intends to make to

- (a) the regulated energy services provided by the distributor or regulated rate supplier, or
- (b) the terms and conditions that apply to the regulated energy services provided by the distributor or regulated rate supplier.

Prohibitions

15 No distributor or regulated rate supplier shall

- (a) give information about retail energy services in a manner that encourages a customer to contact one retailer in preference to other retailers,
- (b) solicit business on behalf of a retailer,
- (c) include or incorporate any communication for sales or marketing purposes in any of the distributor's or regulated rate supplier's communications to customers related to billing for regulated energy services,
- (d) give the appearance that it is acting on behalf of a retailer or that a retailer is acting on its behalf,
- (e) give a customer advice or assistance with respect to any matter relating to a particular retailer, except to refer the customer to a source where the customer may obtain a current list of retailers that are licensed under the *Fair Trading Act* to engage in the marketing of electricity business or the marketing of gas business,
- (f) enable users of its website to access web pages relating to retail energy services from web pages relating to the distributor's or regulated rate supplier's regulated energy services, unless a statement that meets the requirements of section 7 is displayed immediately when one website is accessed from the other, or
- (g) propose adding any services to the services provided under the regulated rate tariff in addition to the services that are required in the *Regulated Rate Option Regulation* (AR 262/2005) or the *Default Gas Supply Regulation* (AR 184/2003).

Information about retail energy services

16 If a customer requests information about retail energy services from a distributor or regulated rate supplier, the distributor or regulated rate supplier shall refer the customer to a source where the customer may obtain a current list of retailers that are licensed under the *Fair Trading Act* to engage in the marketing of electricity business or the marketing of gas business.

Part 3
Relationships Among Distributors,
Regulated Rate Suppliers and
Affiliated Providers

Division 1
Preventing Unfair
Competitive Advantage

Arrangements creating unfair competitive advantage prohibited

17(1) A distributor and an affiliated provider of the distributor shall not make arrangements that create an unfair competitive advantage for the affiliated provider.

(2) A regulated rate supplier and an affiliated provider of the regulated rate supplier shall not make arrangements that create an unfair competitive advantage for the regulated rate supplier or the affiliated provider.

(3) An entity, including a rural electrification association, that carries on both the business of a distributor and the business of a regulated rate supplier or retailer shall not make an internal arrangement that creates an unfair competitive advantage for itself as a regulated rate supplier or retailer.

(4) An entity, including a rural electrification association, that carries on both the business of a regulated rate supplier and the business of a retailer shall not make an internal arrangement that creates an unfair competitive advantage for itself as a regulated rate supplier or retailer.

(5) A distributor or regulated rate supplier and an affiliated provider of the distributor or regulated rate supplier may make arrangements to create cost efficiencies in their operations if, in the opinion of the Commission, the arrangements do not create an unfair competitive advantage for the regulated rate supplier or the affiliated provider.

(6) An entity referred to in subsection (3) or (4) may make internal arrangements to create cost efficiencies in its operations if, in the opinion of the Commission, the arrangements do not create an unfair competitive advantage for the entity as a regulated rate supplier or retailer.

Information sharing

18(1) For the purposes of section 17(1) or (2), an arrangement under which a distributor or regulated rate supplier shares information with an affiliated provider is deemed to create a competitive advantage for the affiliated provider unless

- (a) in the case of information that is not customer information, the sharing of information accords with subsection (2), or
- (b) in the case of information that is customer information, the sharing of customer information accords with subsection (3).

(2) A distributor or regulated rate supplier may share information that is not customer information with an affiliated provider if

- (a) no information is shared that could be used by the affiliated provider for marketing or sales purposes, and
- (b) the distributor or regulated rate supplier and the affiliated provider
 - (i) describe in their compliance plans how the sharing of information that could be used by the affiliated provider for marketing or sales purposes is prevented, and
 - (ii) have in place appropriate data management and information access protocols to ensure information that could be used by the affiliated provider for marketing or sales purposes is not shared.

(3) A distributor or regulated rate supplier may share customer information with an affiliated provider if

- (a) the distributor or regulated rate supplier and the affiliated provider
 - (i) describe in their compliance plans the systems, policies and mechanisms that are in place to ensure that customer information that is received from the distributor or regulated rate supplier is not used by the affiliated provider for marketing or sales purposes, and
 - (ii) have in place appropriate data management and information access protocols to ensure customer information is not used by the affiliated provider for marketing or sales purposes,

and

- (b) the customer information is permitted to be disclosed under section 10, 11, 12 or 13.

Retailer seeking customer information

19 A retailer that seeks or receives customer information from a current or former officer, employee, agent or contractor of a distributor or regulated rate supplier for sales or marketing purposes seeks or obtains an unfair competitive advantage.

Acquisitions, research and dispositions

20(1) For the purposes of section 17(1) or (2), an arrangement under which a distributor or regulated rate supplier and its affiliated provider

- (a) make a joint acquisition, or
- (b) share costs associated with research and development

is deemed to be an arrangement that creates an unfair competitive advantage for the affiliated provider unless the economic benefits or costs of the arrangement are recorded and allocated between the distributor or regulated rate supplier and the affiliated provider in a manner that accurately reflects the economic benefits or costs attributable to the distributor or regulated rate supplier and the affiliated provider.

(2) For the purposes of section 17(1) or (2), an arrangement under which a distributor or regulated rate supplier and its affiliated provider separately or jointly dispose of property that the distributor or regulated rate supplier and the affiliated provider jointly acquired is deemed to be an arrangement that creates an unfair competitive advantage for the affiliated provider unless the economic benefits or costs of the arrangement are recorded and allocated, between the distributor or regulated rate supplier and the affiliated provider in a manner that accurately reflects the economic benefits or costs attributable to the distributor or regulated rate supplier and the affiliated provider.

Goods and services transactions to be at fair market value

21(1) For the purposes of section 17(1) or (2), a transaction between a distributor or regulated rate supplier and its affiliated provider in which goods or services are provided or disposed of at other than fair market value is deemed to be an arrangement that creates an unfair competitive advantage for the affiliated provider.

(2) If the value of the goods or services provided or disposed of in a transaction referred to in subsection (1) is regulated by a municipal, provincial or federal government or a government agency, the regulated value is the fair market value for the purposes of subsection (1).

Financial transactions

22 For the purposes of section 17(1) or (2), if a distributor or regulated rate supplier enters into a financial transaction with, or on behalf of, an affiliated provider of the distributor or regulated rate supplier on terms that are more favourable to the affiliated provider than the terms that the affiliated provider could obtain on the open market, the financial transaction is deemed to be an arrangement that creates an unfair competitive advantage for the affiliated provider.

Entities carrying on more than one business

23(1) For the purposes of section 17(3), an internal arrangement under which an entity that carries on both the business of a distributor and the business of a regulated rate supplier or retailer uses information that it obtains in carrying on business as a distributor for sales or marketing purposes in carrying on business as a regulated rate supplier or retailer is deemed to be an arrangement that creates an unfair competitive advantage for the entity as a regulated rate supplier or retailer.

(2) For the purposes of section 17(4), an internal arrangement under which an entity that carries on both the business of a regulated rate supplier and the business of a retailer uses information that it obtains in carrying on business as a regulated rate supplier for sales or marketing purposes in carrying on business as a retailer is deemed to be an arrangement that creates an unfair competitive advantage for the entity as a retailer.

(3) For the purposes of section 17(3), an internal arrangement under which an entity that carries on both the business of a distributor and the business of a regulated rate supplier or retailer records or allocates between those businesses the economic benefits or costs associated with

- (a) an acquisition,
- (b) research and development, or
- (c) a disposition of property

so that the economic benefits or costs attributable to those respective businesses is not accurately reflected is deemed to be an arrangement that creates an unfair competitive advantage for the entity as a regulated rate supplier or retailer.

(4) For the purposes of section 17(4), an internal arrangement under which an entity that carries on both the business of a regulated rate supplier and the business of a retailer records or allocates between those businesses

- (a) the economic benefits or costs associated with
 - (i) an acquisition,
 - (ii) research and development, or
 - (iii) a disposition of property,
- or
- (b) the economic benefits or costs of regulated energy services it provides in carrying on business as a regulated rate supplier and retail energy services it provides in carrying on business as a retailer

so that the economic benefits or costs attributable to those respective businesses is not accurately reflected is deemed to an arrangement that creates an unfair competitive advantage for the entity as a regulated rate supplier or retailer.

Access to publicly available information

24(1) Nothing in this Regulation

- (a) prevents a distributor or regulated rate supplier from giving a retailer, or permitting a retailer to access, information held by the distributor or regulated rate supplier that is otherwise available to the public, or
- (b) prevents a retailer from obtaining, accessing or using information referred to in clause (a).

(2) If a distributor or regulated rate supplier gives a retailer, or permits a retailer to access, information referred to in subsection (1), the distributor or regulated rate supplier shall also give other retailers, or permit other retailers to access, that information in the same form and manner and subject to the same conditions.

Division 2 Records and Accounts

Records and accounts

25(1) A distributor, a regulated rate supplier and an affiliated provider of a distributor or regulated rate supplier shall each keep separate records and accounts.

(2) An entity, including a rural electrification association, that carries on both the business of a distributor and the business of a regulated rate supplier or retailer, or both the business of a regulated rate supplier and the business of a retailer, shall keep

separate records and accounts for each of those business operations in accordance with subsection (4).

(3) A retailer that is an affiliated provider of a distributor or regulated rate supplier shall

- (a) keep sufficient records and accounts to enable an audit to be conducted under Part 4, and
- (b) keep accounts in accordance with generally accepted accounting principles.

(4) A distributor and a regulated rate supplier shall

- (a) keep sufficient records and accounts to enable an audit to be conducted under Part 4,
- (b) comply with any guidelines or uniform system of record keeping required by the Commission, and
- (c) keep accounts in accordance with
 - (i) generally accepted accounting principles, and
 - (ii) any guidelines or uniform system of accounting required by the Commission.

Written financial transactions

26 Every financial transaction between a distributor or regulated rate supplier and an affiliated provider of the distributor or regulated rate supplier must be in writing.

Records of transactions for goods and services

27(1) A distributor or regulated rate supplier and an affiliated provider of the distributor or regulated rate supplier shall each maintain a record of

- (a) all transactions for goods and services between the distributor or regulated rate supplier and the affiliated provider, and
- (b) the value of the transaction expressed in terms of money.

(2) If the total cost of all transactions for goods or services between a distributor or regulated rate supplier and an affiliated provider of the distributor or regulated rate supplier exceeds \$500 000 annually or an amount determined by the Commission, each of the transactions must be documented by one or more

written agreements and must be supported by written evidence of the fair market value of the goods or services.

Maintaining records

28 Each distributor, regulated rate supplier and affiliated provider, including an entity referred to in section 17(3) or (4), shall keep the records, accounts, records of financial transactions, reports and plans that are required under this Regulation or its compliance plan for at least 6 years.

Part 4 Compliance Requirements

Division 1 Compliance Plans and Compliance Reports

Prohibition against providing retail energy services without approved compliance plan

29(1) No affiliated provider of a distributor or regulated rate supplier shall provide retail energy services to customers unless

- (a) a compliance plan or plans submitted by the affiliated provider and the distributor or regulated rate supplier under section 30 that deal with those energy services have been approved by the Commission, and
- (b) the affiliated provider and distributor or regulated rate supplier have sent copies of the approved compliance plan or plans to the persons referred to in section 31(4).

(2) An entity referred to in section 17(3) or (4) that carries on the business of a retailer shall not provide retail energy services to customers unless

- (a) a compliance plan or plans submitted by the entity that deal with those energy services have been approved by the Commission, and
- (b) the entity has sent copies of the approved compliance plan or plans to the persons referred to in section 31(4).

Compliance plan required

30(1) Each distributor, regulated rate supplier and affiliated provider of a distributor or regulated rate supplier shall

- (a) prepare a compliance plan setting out the systems, policies and mechanisms that the distributor, regulated rate supplier or affiliated provider intends to use to ensure that the distributor, regulated rate supplier or affiliated provider and its officers, employees, agents and contractors comply with this Regulation, and
 - (b) file the compliance plan with the Commission.
- (2) A compliance plan may be prepared and filed jointly by a distributor or regulated rate supplier and an affiliated provider of the distributor or regulated rate supplier.
- (3) A compliance plan may deal with one or more of the types of energy services provided by the distributor, regulated rate supplier or affiliated provider.
- (4) Subject to section 37(1), a compliance plan must include at least the following:
- (a) in the case of a distributor or regulated rate supplier, a list of the distributor's or regulated rate supplier's affiliated providers;
 - (b) in the case of an affiliated provider of a distributor or regulated rate supplier, a list of the distributors or regulated rate suppliers of which it is an affiliated provider;
 - (c) a description of the systems and mechanisms, and a copy of the policies, that are in place to ensure compliance with this Regulation;
 - (d) a description of how officers, employees, agents and contractors of the distributor, regulated rate supplier or affiliated provider will be informed about this Regulation, the compliance plan and their duties and responsibilities under this Regulation and the compliance plan;
 - (e) a description of how compliance with this Regulation and the compliance plan will be internally monitored by the distributor, regulated rate supplier or affiliated provider and how non-compliance with this Regulation and the compliance plan will be identified and mitigated, including the name or names of the persons accountable for
 - (i) development of the compliance plan,
 - (ii) implementing and monitoring the compliance plan and recommending changes as required, and

- (iii) internally ensuring compliance with this Regulation and the compliance plan and mitigating issues of non-compliance;
- (f) a description of the contents required to be included in quarterly compliance reports to the board of directors of the distributor, regulated rate supplier or affiliated provider and the annual compliance report to the Commission required by section 33;
- (g) a description of the manner in which economic benefits and costs of arrangements are to be recorded and allocated for the purposes of Part 3;
- (h) a description of the means that will be used to ensure that auditors have sufficient access to officers, employees, agents, contractors and information systems of the distributor, regulated rate supplier or affiliated provider to perform the audit required under this Part;
- (i) a description of how the notice required by section 34 will be given to the public;
- (j) a description of the procedure that may be used for the voluntary resolution of complaints about non-compliance with this Regulation or the compliance plan;
- (k) a description of the systems and mechanisms, and a copy of the policies, that are in place to ensure compliance with the rules respecting service standards made by the Commission under section 129(1) of the *Electric Utilities Act* or section 28.3(1) of the *Gas Utilities Act* relating to
 - (i) billing and billing services to be provided to customers, and
 - (ii) the process, procedures and standards for transfer of data relating to distribution tariffs;
- (l) any other information required by any rules made by the Commission respecting compliance plans.

Approval by Commission**31(1)** The Commission may

- (a) approve a compliance plan, with or without changes and with or without conditions, or
- (b) refuse to approve a compliance plan.

(2) A compliance plan approved under subsection (1) remains in effect until the expiry of the period prescribed by the Commission or until the Commission revokes the compliance plan, whichever occurs first.

(3) The Commission shall send the Market Surveillance Administrator a copy of a compliance plan approved under subsection (1).

(4) Each distributor, regulated rate supplier and affiliated provider of a distributor or regulated rate supplier shall, as soon as practicable after receiving the Commission's approval of its compliance plan, send a copy of the compliance plan

- (a) in the case of a distributor or regulated rate supplier, to the affiliated provider of the distributor or regulated rate supplier,
- (b) in the case of an affiliated provider of a distributor or regulated rate supplier, to the distributors or regulated rate suppliers of which it is an affiliated provider, and
- (c) to its officers, employees, agents and contractors affected by the plan.

Changes to compliance plan

32(1) Each distributor, regulated rate supplier and affiliated provider of a distributor or regulated rate supplier shall keep its compliance plan up to date and shall make changes to the compliance plan to reflect changes in circumstances or changes to this Regulation.

(2) A change to a compliance plan must be submitted to the Commission for approval

- (a) within 60 days following a change in circumstances or an amendment to this Regulation that requires a change to a compliance plan, or
- (b) as soon as practicable when a change to the plan is made for a reason other than a reason referred to in clause (a).

(3) On receipt of a proposed change to a compliance plan, the Commission may

- (a) approve the proposed change, with or without changes and with or without conditions,
- (b) direct other changes to be made to the compliance plan, or

(c) refuse to approve the proposed change.

(4) The Commission shall send a copy of approved changes to a compliance plan to the Market Surveillance Administrator.

(5) Each distributor, regulated rate supplier and affiliated provider of a distributor or regulated rate supplier shall, as soon as practicable after receiving the Commission's approval of changes to its compliance plan, send a copy of the changes to the compliance plan

- (a) in the case of a distributor or regulated rate supplier, to the affiliated providers of the distributor or regulated rate supplier,
- (b) in the case of an affiliated provider of a distributor or regulated rate supplier, to the distributors or regulated rate suppliers of which it is an affiliated provider, and
- (c) to its officers, employees, agents and contractors affected by the plan.

Quarterly and annual compliance reports

33(1) Subject to section 37(1)(b), the senior management of each distributor, regulated rate supplier and affiliated provider of a distributor or regulated rate supplier shall in each quarter of a calendar year prepare a compliance report for the board of directors of the distributor, regulated rate supplier or affiliated provider that includes a description of

- (a) any non-compliance with this Regulation or the compliance plan,
- (b) the action taken to remedy any non-compliance, and
- (c) any complaints of non-compliance with this Regulation or the compliance plan, and how the complaints have been dealt with.

(2) Subject to section 37(1)(c), within 90 days after the end of each calendar year, each distributor, regulated rate supplier and affiliated provider of a distributor or regulated rate supplier shall send to the Commission an annual compliance report that has been approved by the board of directors of the distributor, regulated rate supplier or affiliated provider, describing the matters referred to in subsection (1) for the calendar year.

(3) The Commission shall send the Market Surveillance Administrator copies of the annual compliance reports received under subsection (2).

Information about complaints

34(1) Each distributor, regulated rate supplier and affiliated provider of a distributor or regulated rate supplier shall give notice to the public in accordance with its compliance plan that complaints about contraventions of this Regulation may be made to the Commission or the Market Surveillance Administrator.

(2) The notice referred to in subsection (1) must

- (a) be approved by the Commission before it is given to the public,
- (b) be given in a manner that ensures that the greatest number of people will become aware of it, and
- (c) make clear that the Commission and the Market Surveillance Administrator are independent of distributors, regulated rate suppliers and affiliated providers.

Publication of compliance plans and reports

35 The Commission may make available to the public some or all of the contents of a compliance plan or compliance report of a distributor, regulated rate supplier or affiliated provider.

Regulation prevails

36 If there is a conflict or inconsistency between a provision of a compliance plan and a provision of this Regulation, the provision of this Regulation prevails to the extent of the conflict or inconsistency.

Division 2 Varying Arrangements

Alternative compliance arrangements

37(1) The Commission may, in accordance with its rules made under section 76 of the *Alberta Utilities Commission Act*,

- (a) vary the requirements of section 30(4) in the case of a distributor with a small number of customers or if the Commission is satisfied that it is in the public interest to do so,
- (b) vary the intervals at which compliance reports are required to be prepared under section 33(1), and
- (c) require a distributor, regulated rate supplier or an affiliated provider of a distributor or regulated rate

supplier to send to the Commission a compliance report prepared under section 33(1).

(2) The Commission must not approve a compliance plan that meets varied requirements unless the Commission is satisfied that it is in the public interest to do so.

Emergency exceptions

38 Any action taken by a distributor, a regulated rate supplier or an affiliated provider of a distributor or regulated rate supplier in response to an emergency that threatens public safety, the safety of its officers, employees, agents or contractors, the physical integrity of its facilities or system reliability does not contravene this Regulation or a compliance plan.

Division 3 Compliance Audit

Appointment of auditor

39(1) The Commission shall appoint one or more auditors to audit the records and accounts of distributors, regulated rate suppliers and affiliated providers and to prepare audit reports in accordance with this Division.

(2) The Commission may appoint employees or contractors of the Commission for the purposes of subsection (1).

Audit

40(1) An auditor must conduct an audit of the records and accounts of an affiliated provider and each distributor or regulated rate supplier of which it is an affiliated provider

- (a) not later than 6 months after the end of the calendar year in which the affiliated provider begins to provide energy services to customers, and
- (b) at least once in every 36 months during which the affiliated provider provides energy services to customers.

(2) An affiliated provider and each distributor or regulated rate supplier of which it is an affiliated provider shall give the auditor access to any information the auditor requests to conduct the audit.

(3) The auditor's costs and expenses are to be paid by the Commission and the Commission may, in accordance with its rules made under section 76 of the *Alberta Utilities Commission Act*, recover the costs and expenses from an affiliated provider, distributor or regulated rate supplier.

(4) The Commission may, in accordance with its rules made under section 76 of the *Alberta Utilities Commission Act*, exempt an affiliated provider, distributor or regulated rate supplier from the application of subsection (1) for a period not exceeding 36 months.

Audit report

41(1) As soon as practicable after completing an audit, the auditor shall send the auditor's audit report to

- (a) the Commission, and
- (b) the affiliated provider, distributor or regulated rate supplier that was audited.

(2) The Commission may send a copy of an audit report that it receives under subsection (1) to the Market Surveillance Administrator.

(3) The Commission shall within 30 days after receiving an audit report under subsection (1) post the audit report on its website in a location that is easy for the public to locate.

Division 4 Investigations

Referral of matters to MSA

42(1) If the Commission becomes aware of any conduct that does not support the fair, efficient and openly competitive operation of the electricity market or the natural gas market, the Commission shall refer the matter to the Market Surveillance Administrator under section 41 of the *Alberta Utilities Commission Act*.

(2) If the Commission refers a matter to the Market Surveillance Administrator under subsection (1), the Commission shall make any records in its possession that may be relevant to the matter available to the Market Surveillance Administrator.

Notice to Commission of MSA investigations

43 The Market Surveillance Administrator shall notify the Commission as soon as practicable of any investigation started by the Market Surveillance Administration involving a distributor, regulated rate supplier or affiliated provider.

Information sharing between Commission and MSA

44(1) On the request of the Market Surveillance Administrator for the purposes of carrying out its mandate under section 39 of the *Alberta Utilities Commission Act*, the Commission shall make any

compliance plans, compliance reports or documents used to prepare audit reports that are in the Commission's possession available to the Market Surveillance Administrator.

(2) The Market Surveillance Administrator may share any information it obtains in carrying out its mandate under section 39 of the *Alberta Utilities Commission Act* with the Commission if the Market Surveillance Administrator believes the information may assist the Commission in carrying out its responsibilities under this Regulation.

Part 5 Transitional Provisions, Repeal and Coming into Force

Approvals under Code of Conduct Regulation (AR 160/2003)

45(1) In this section,

- (a) "existing affiliated retailer" means an affiliated retailer operating under the *Code of Conduct Regulation* (AR 160/2003) immediately before the coming into force of this section;
- (b) "existing owner" means an owner operating under the *Code of Conduct Regulation* (AR 160/2003) immediately before the coming into force of this section;
- (c) "existing regulated rate provider" means a regulated rate provider operating under the *Code of Conduct Regulation* (AR 160/2003) immediately before the coming into force of this section.

(2) A compliance plan filed with the Market Surveillance Administrator that was in effect under the *Code of Conduct Regulation* (AR 160/2003) immediately before the coming into force of this section continues to have effect under this Regulation until the earliest of

- (a) December 31, 2016,
- (b) the compliance plan is revoked by the Commission, or
- (c) the compliance plan is superseded by a new compliance plan approved by the Commission.

(3) An approval or exemption given by the Market Surveillance Administrator that was in effect under the *Code of Conduct Regulation* (AR 160/2003) immediately before the coming into

force of this section continues to have effect under this Regulation until the earliest of

- (a) December 31, 2016,
- (b) the approval or exemption is revoked by the Commission, or
- (c) in the case of an approval, the approval is superseded by a new approval given by the Commission.

(4) Any reference to the Market Surveillance Administrator in a compliance plan, approval or exemption referred to in subsection (2) or (3) is deemed to be a reference to the Commission.

(5) Each existing owner, existing regulated rate provider and existing affiliated retailer shall, within 3 months after the day on which this section comes into force, file with the Commission

- (a) a copy of its approved compliance plan that was in effect immediately before the coming into force of this section, and
- (b) a copy of every approval or exemption that it received under the *Code of Conduct Regulation* (AR 160/2003) that was in effect immediately before the coming into force of this section.

(6) Each existing owner, existing regulated rate provider and existing affiliated retailer shall file a new compliance plan with the Commission in accordance with this Regulation in sufficient time for the Commission to consider and approve the plan before January 1, 2017.

(7) Section 32 does not apply in respect of a compliance plan continued by this section.

Approvals under Code of Conduct Regulation (AR 183/2003)

46(1) In this section,

- (a) “existing affiliated retailer” means an affiliated retailer operating under the *Code of Conduct Regulation* (AR 183/2003) immediately before the coming into force of this section;
- (b) “existing default supply provider” means a default supply provider operating under the *Code of Conduct Regulation* (AR 183/2003) immediately before the coming into force of this section;

- (c) “existing gas distributor” means a gas distributor operating under the *Code of Conduct Regulation* (AR 183/2003) immediately before the coming into force of this section.
- (2) A compliance plan filed with the Commission that was in effect under the *Code of Conduct Regulation* (AR 183/2003) immediately before the coming into force of this section continues to have effect under this Regulation until the earliest of
- (a) December 31, 2016,
 - (b) the compliance plan is revoked by the Commission, or
 - (c) the compliance plan is superseded by a new compliance plan approved by the Commission.
- (3) An approval or exemption given by the Commission that was in effect under the *Code of Conduct Regulation* (AR 183/2003) immediately before the coming into force of this section continues to have effect under this Regulation until the earliest of
- (a) December 31, 2016,
 - (b) the approval or exemption is revoked by the Commission, or
 - (c) in the case of an approval, the approval is superseded by a new approval given by the Commission.
- (4) Each existing gas distributor, existing default supply provider and existing affiliated retailer shall, within 3 months after the day on which this section comes into force, provide the Commission with
- (a) a copy of its compliance plan that was in effect immediately before the coming into force of this section, and
 - (b) a copy of every approval and exemption that it received under the *Code of Conduct Regulation* (AR 183/2003) that was in effect immediately before the coming into force of this section.
- (5) Each existing gas distributor, existing default supply provider and existing affiliated retailer shall file a new compliance plan with the Commission in accordance with this Regulation in sufficient time for the Commission to consider and approve the plan before January 1, 2017.
- (6) Section 33 does not apply in respect of a compliance plan continued by this section.

Consents continued

47 A consent given by a customer under the *Code of Conduct Regulation* (AR 160/2003) or the *Code of Conduct Regulation* (AR 183/2003) is deemed to be a consent to the same effect under this Regulation.

Market Surveillance Administrator and Commission duties

48(1) The Market Surveillance Administrator shall provide the Commission with copies of the approved compliance plans that were in effect immediately before the coming into force of this section and compliance reports, audit reports and other documents under the *Code of Conduct Regulation* (AR 160/2003) that are requested by the Commission.

(2) The Commission and the Market Surveillance Administrator shall co-operate to ensure an orderly transition from the *Code of Conduct Regulation* (AR 160/2003) to this Regulation before January 1, 2017, and shall inform the Minister when the transition is complete.

Repeal

49(1) The *Code of Conduct Regulation* (AR 160/2003) is repealed.

(2) The *Code of Conduct Regulation* (AR 183/2003) is repealed.

Expiry

50 For the purposes of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on November 30, 2020.

Coming into force

51 This Regulation comes into force on January 1, 2016.