



# **Direct Energy Regulated Services**

**Gas Code of Conduct Regulation  
Compliance Plan**

**February 27, 2004**

**ALBERTA ENERGY AND UTILITIES BOARD**  
Decision 2004-019: Direct Energy Regulated Services  
Gas Code of Conduct Regulation Compliance Plan  
Application No. 1318247

Published by

Alberta Energy and Utilities Board  
640 – 5 Avenue SW  
Calgary, Alberta  
T2P 3G4

Telephone: (403) 297-8311  
Fax: (403) 297-7040

Web site: [www.eub.gov.ab.ca](http://www.eub.gov.ab.ca)

## Contents

<b>1</b>	<b>INTRODUCTION.....</b>	<b>1</b>
<b>2</b>	<b>DETAILS OF THE APPLICATION .....</b>	<b>2</b>
<b>3</b>	<b>VIEWS OF THE BOARD.....</b>	<b>3</b>
<b>3.1</b>	Use of the Code of Conduct Regulations as Template .....	3
<b>3.2</b>	Employees of DERS .....	3
<b>3.3</b>	Segregation of Duties.....	3
<b>3.4</b>	Relationship With ATCO I-Tek.....	4
<b>4</b>	<b>ORDER .....</b>	<b>5</b>
	<b>APPENDIX 1 – DIRECT ENERGY REGULATED SERVICES COMPLIANCE PLAN ...</b>	<b>7</b>
	<b>APPENDIX 2 – REVIEW AND APPROVAL PROCESS FOR DIRECT ENERGY REGULATED SERVICES COMPLIANCE PLAN .....</b>	<b>9</b>



# ALBERTA ENERGY AND UTILITIES BOARD

Calgary Alberta

## DIRECT ENERGY REGULATED SERVICES GAS CODE OF CONDUCT REGULATION COMPLIANCE PLAN

Decision 2004-019  
Application No. 1318247  
File No. 2010-02

### 1 INTRODUCTION

Direct Energy Regulated Services (DERS), a business unit of Direct Energy Marketing Limited (DEML), applied to the Alberta Energy and Utilities Board (Board) and the Market Surveillance Administrator (MSA) on October 20, 2003, for approval of an Electricity and Gas Compliance Plan (Compliance Plan or Plan) pursuant to Section 30(1) of the *Code of Conduct Regulation* under the *Gas Utilities Act* (Gas Code of Conduct Regulation) and Section 31(1) of the *Code of Conduct Regulation* under the *Electric Utilities Act* (Electricity Code of Conduct Regulation).

DERS is a default supply provider under the Gas Code of Conduct Regulation and an owner under the Electricity Code of Conduct Regulation by virtue of the approval by the Board of the appointment of DERS by ATCO Gas & Pipelines Ltd. and ATCO Electric Ltd., respectively, to perform certain regulated retail functions.<sup>1</sup>

As a default supply provider and owner, DERS is required to obtain approval of the Compliance Plan from the Board and the MSA as it is intended that an affiliated retailer of DERS, Direct Energy Partnership (DEP), will provide retail gas and electricity services to customers in Alberta.<sup>2</sup>

The Board and the MSA considered the Compliance Plan in a collaborative manner by way of an iterative, consultative process.<sup>3</sup> This process involved DERS providing Board and MSA staff with an initial draft of the Compliance Plan. Following review of the initial draft, comments were provided to DERS to improve the contents of the Plan and bring it into line with the requirements of both the Gas and Electricity Code of Conduct Regulations. This process was continued, with DERS providing revised drafts of the Compliance Plan and Board and MSA staff providing comments until Board and MSA staff considered that the Plan met the requirements of the Code of Conduct Regulations.

DERS provided the final version of the Compliance Plan to the Board on February 13, 2004, which was then reviewed by the Board. A copy of the final version of the Compliance Plan is reproduced in [Appendix 1](#) to this Decision.

For purposes of this Decision, therefore, the Board considers that the proceeding closed on February 13, 2004.

---

<sup>1</sup> Approved by the Board in Decision [2003-098](#) issued December 4, 2003.

<sup>2</sup> As an affiliated retailer of DERS, DEP must also prepare a compliance plan under both the Gas and Electric Code of Conduct Regulations. DEP has applied for Board approval of such a plan (Application No. 1319537) and the Board has dealt with that plan in Decision 2004-020 issued concurrently with this Decision.

<sup>3</sup> The Board communicated its intention to proceed in this fashion in a letter dated December 3, 2003, a copy of which is reproduced in [Appendix 2](#) to this Decision.

## 2 DETAILS OF THE APPLICATION

The Compliance Plan is modeled on the requirements of the Gas and Electricity Code of Conduct Regulations. DERS will be operating as the Default Rate Tariff provider to natural gas customers in the ATCO Gas service territory and as the Regulated Rate Tariff provider to electricity customers in the ATCO Electric service territory. Certain employees and agents or contractors of DEML will perform functions for, or undertake tasks on behalf of, DERS in relation to the operations of the business carried on by DERS, which is exclusive to the provision of regulated services.

The Compliance Plan sets out the systems, policies and mechanisms that DEML will rely upon to ensure that the operations of DERS are conducted in a manner that is consistent with the requirements of the Gas and Electricity Code of Conduct Regulations. The Compliance Plan will apply to all DERS personnel and to all DERS agents or contractors and their staff.

The Compliance Plan indicates that DERS will be operated in a manner that is consistent with the Gas and Electricity Code of Conduct Regulations. In this regard, it will provide policies and mechanisms to govern the following activities:

- Equality of treatment of customers
- Preservation of the confidentiality of customer information
- Equality of treatment of retailers
- DERS business practices
- Prevention of unfair competitive advantage to affiliates
- Maintenance of separate records and accounts
- Development of a compliance plan, and related reporting and monitoring
- Compliance audits.

The Plan indicates that DEML will not condone, encourage, or support any activity or behaviour on the part of DEML employees, including DERS personnel, agents or contractors, or their staff, that is inconsistent with the requirements of the Compliance Plan or the Gas and Electricity Code of Conduct Regulations. The Plan also indicates that DEML is committed to implementing immediate and comprehensive responses to any such activity or behaviour upon becoming aware of it.

The Compliance Plan is supplemented by training sessions designed to convey to staff the requirements of the Plan, and to indicate to whom they should address questions, if any, about the Plan. In addition, all staff affected by the Plan, whether employees of DEML or DERS or of their agents or contractors, are required to sign an acknowledgement that they have read the Plan, that they understand its requirements and that they agree to be bound by its requirements. Finally, shortly after the end of each calendar year, all staff who are subject to the provisions of the Plan are required to sign an acknowledgement that they have actually complied with the requirements of the Plan during the preceding year.

DEML has also prepared an implementation strategy for each mechanism contained in the Plan. They have allocated responsibility for each mechanism to a specific group and, where possible, to a specific individual. DEML is also moving ahead with practical implementation issues, such

as the institution of physical barriers between staff responsible for regulated and unregulated business activities.

### **3 VIEWS OF THE BOARD**

#### **3.1 Use of the Code of Conduct Regulations as Template**

The Board notes that DEML modeled the Compliance Plan on the Gas and Electricity Code of Conduct Regulations. The policies outlined in the Plan address the requirements laid out in the Regulations. These policies are supplemented by mechanisms designed to ensure that the policies are actually followed in practice. Subject to the particular issues noted below in these Views, the Board is satisfied that the Compliance Plan addresses each of the requirements of the Gas Code of Conduct Regulation.

#### **3.2 Employees of DERS**

The Board notes that DERS is a business unit of DEML and, therefore, has no employees of its own. As a result, all of the members of the DERS Compliance Committee (as defined in the Plan) are DEML employees.

In the Board's view, the lack of separate employees could lead to some practical difficulties with regard to performance of compliance obligations. It is not clear at this stage that these difficulties will necessarily materialize. In order to address any potential concern, however, the Board directs DEML to monitor this situation in practice and determine whether changes are required, if practical difficulties are actually encountered. The Board also directs DEML's independent auditor to include a review of this matter in the first compliance audit pursuant to Part 4, Division 2, of the Gas Code of Conduct Regulation.

#### **3.3 Segregation of Duties**

The Board notes that in some mechanisms set out in the Compliance Plan, the Vice President, Regulatory Affairs, is designated as a potential approver for the items covered by those mechanisms. The Plan makes it clear that the Compliance Committee is responsible for implementing and monitoring compliance with the Plan. However, the Board considers that, in practical terms, the Vice President, Regulatory Affairs, is likely to have the *de facto* responsibility for monitoring compliance on a daily basis since the Committee only meets quarterly.

DEML felt that the Vice President, Regulatory Affairs, was the most knowledgeable about the compliance requirements and their implications and that, therefore, it made sense for that individual to approve certain activities. Nevertheless, the Board is concerned with the appropriateness of the individual responsible for monitoring compliance on a daily basis also being responsible for approving compliance activities. However, the Board considers that this matter is best addressed through actual experience and can be subject to the first independent audit.

Therefore, the Board directs that DEML monitor this situation in practice and determine whether changes are required if practical difficulties are actually encountered. The Board also directs DEML's independent auditor to include a review of this matter in the first compliance audit pursuant to Part 4, Division 2, of the Gas Code of Conduct Regulation.

### 3.4 Relationship With ATCO I-Tek

The Board notes that ATCO I-Tek has a contract to provide billing and other customer-related services to DEML. As a result, it is clear that ATCO I-Tek is a contractor of DEML. The Board also notes, however, that the Gas Code of Conduct Regulation and related provisions of the *Gas Utilities Act* may support a characterization of ATCO I-Tek as an affiliated retailer of DEML, which would require ATCO I-Tek to prepare and submit for Board approval its own compliance plan.

The Board recognises that DEML has made significant improvements to the original draft of the Compliance Plan to address the concerns that have been raised by Board staff in this regard. At present, the Board is reasonably satisfied that treating ATCO I-Tek as a contractor of DEML will achieve the purposes of the Gas Code of Conduct Regulation. In the circumstances, therefore, the Board is prepared to treat ATCO I-Tek as a contractor. As a result, ATCO I-Tek will be bound by the provisions of the DERS Compliance Plan and will not have to prepare a separate compliance plan. However, the Board considers that this relationship must be monitored and reviewed to ensure that the purposes of the Regulation are, in fact, achieved.

Therefore, the Board directs DEML's independent auditor to include a review of this matter in the first compliance audit pursuant to Part 4, Division 2, of the Gas Code of Conduct Regulation. The present position of the Board may be revisited, depending upon the outcome of the audit. In particular, the Board reserves its right to determine whether ATCO I-Tek is an "affiliated retailer" for purposes of the Gas Code of Conduct Regulation.



#### 4 ORDER

For the reasons set out in this Decision, the Board approves the DERS Compliance Plan, as attached to this Decision as [Appendix 1](#).

Dated in Calgary, Alberta on February 27, 2004.

#### ALBERTA ENERGY AND UTILITIES BOARD

*(original signed by)*

B. T. McManus, Q.C.  
Presiding Member

*(original signed by)*

J. I. Douglas, FCA  
Member

*(original signed by)*

W. K. Taylor  
Acting Member



## APPENDIX 1 – DIRECT ENERGY REGULATED SERVICES COMPLIANCE PLAN

[\(Click here to return to Order\)](#)



"040226 DERS  
Compliance Plan (Fin

(Consists of 45 pages)



**APPENDIX 2 – REVIEW AND APPROVAL PROCESS FOR DIRECT ENERGY  
REGULATED SERVICES COMPLIANCE PLAN**

[\(Click here to return to Order\)](#)



"03-12-03 EUB Letter  
to Calgary re Process

(Consists of 2 pages)



**Direct Energy**<sup>TM</sup>  
Regulated Services

# **Electricity and Gas Compliance Plan**

**March 2004**

**Gas Utilities Act – Code of Conduct Regulation  
Electric Utilities Act – Code of Conduct Regulation**



**TABLE OF CONTENTS**

**I. INTRODUCTION.....4**  
(A) Purpose of Direct Energy Regulated Services Compliance Plan ..... 4

**II. DEFINITIONS ..... 6**

**III. CONDUCT OF DIRECT ENERGY REGULATED SERVICES ..... 12**  
(A) Behaviour of DERS (ECCR Section 3, GCCR Section 3) ..... 12

**IV. EQUALITY OF TREATMENT FOR CUSTOMERS ..... 14**  
(A) Tying Prohibited (ECCR Section 4, GCCR Section 4) ..... 14  
(B) Transfer of Customers (ECCR Section 5, GCCR Section 5)..... 15  
(C) Representations (ECCR Section 6, GCCR Section 6) ..... 15  
(D) Advertising (ECCR Section 7, GCCR Section 7)..... 16  
(E) Meetings by DERS with Retailers and Customers (ECCR Section 8, GCCR Section 8) ..... 16

**V. CONFIDENTIALITY OF CUSTOMER INFORMATION ..... 17**  
(A) Confidentiality Rule, Disclosure of Customer Information, and Disclosure to Two or More Retailers, Conditions on Disclosure, and Historical Consumption (ECCR Sections 9, 10, 11, 12 and 13, GCCR Sections 9, 10, 11, 12 and 13) ..... 17  
(B) Aggregated Customer Information (ECCR Section 14, GCCR Section 14) ..... 24

**VI. EQUALITY OF TREATMENT OF RETAILERS.....26**  
(A) Equal Treatment (ECCR Section 15, GCCR Section 15)..... 26  
(B) Equal Notice of Changes (ECCR Section 16, GCCR Section 16)..... 26

**VII. BUSINESS PRACTICE OF DIRECT ENERGY REGULATED SERVICES .....27**  
(A) Conditions of Access to Written Communications with Retailers (ECCR Section 17, GCCR Section 17)..... 27  
(B) Prohibitions (ECCR Section 18, GCCR Section 18)..... 27

**VIII. PREVENTING UNFAIR COMPETITIVE ADVANTAGE .....29**  
(A) Efficiency Without Unfair Competition (ECCR Section 19, GCCR Section 19) ... 29  
(B) Non-disclosure of DERS Customer Information for Marketing or Sales Purposes (ECCR Section 20, GCCR Section 20) ..... 29  
(C) DERS Customer Information from Employees and Others (ECCR Section 21, GCCR Section 21)..... 31  
(D) Joint Acquisitions, Research, and Dispositions (ECCR Section 22, GCCR Section 22) ..... 31  
(E) Goods and Services Transactions to be at Fair Market Value (ECCR Section 23, GCCR Section 23)..... 32  
(F) Financial Transactions (ECCR Section 24, GCCR Section 24) ..... 32  
(G) Access to Publicly Available Information (ECCR Section 26, GCCR Section 25) ..... 32



<b>IX.</b>	<b>SEPARATE RECORDS AND ACCOUNTS.....</b>	<b>34</b>
	(A) Records and Accounts (ECCR Section 27, GCCR Section 26) .....	34
	(B) Written Financial Transactions (ECCR Section 28, GCCR Section 27) .....	34
	(C) Transaction Records (ECCR Section 29, GCCR Section 28) .....	34
	(D) Maintaining Records (ECCR Section 30, GCCR Section 29).....	35
<b>X.</b>	<b>COMPLIANCE PLANS AND REPORTS.....</b>	<b>36</b>
	(A) Compliance Plan (ECCR Sections 31 and 33, GCCR Sections 30 and 32).....	36
	(B) Quarterly and Annual Compliance Reports (ECCR Section 34, GCCR Section 33) .....	39
	(C) Public Notice of Complaints (ECCR Section 35, GCCR Section 34) .....	40
	(D) No Release From Obligations Under Regulation (ECCR Section 37, GCCR Section 36) .....	40
<b>XI.</b>	<b>COMPLIANCE AUDIT .....</b>	<b>41</b>
	(A) Appointment of Auditor (ECCR Section 38, GCCR Section 37).....	41
<b>XII.</b>	<b>EXCEPTIONS .....</b>	<b>42</b>
	(A) Emergency Exceptions (ECCR Section 44, GCCR Section 42).....	42
	(B) Bill Payments at ATCO District Offices and Retail Offices .....	42
<b>APPENDIX A:</b>	<b>COMPLIANCE ACKNOWLEDGEMENT .....</b>	<b>44</b>
<b>APPENDIX B:</b>	<b>COMPLIANCE CONFIRMATION .....</b>	<b>45</b>





## I. INTRODUCTION

### (A) PURPOSE OF DIRECT ENERGY REGULATED SERVICES COMPLIANCE PLAN

Direct Energy Regulated Services (“DERS”), a business unit of Direct Energy Marketing Limited (“DEML”), is a default supply provider under the GCCR and an owner under the ECCR by virtue of the approval by the Board of the appointment of DERS by ATCO Gas & Pipelines Ltd. and ATCO Electric Ltd., respectively, to perform certain regulated retail functions. DERS will also be an owner under the ECCR in the event the board of directors of an REA appoints DERS to be the Regulated Rate Tariff Provider in that REA’s service territory. As a default supply provider under the GCCR and an owner under the ECCR, DERS is required to obtain approval of this Compliance Plan from the Board and the MSA, respectively, if an affiliate of DERS provides retail gas services or retail electricity service in Alberta.

Certain employees and agents or contractors of DEML will perform functions for, or undertake tasks on behalf of, DERS in relation to the operations of the business carried on by DERS, which is exclusive to the provision of Regulated Services. DERS will be operated in a manner that is consistent with the ECCR and the GCCR, which mandate:

- (a) Equality of treatment of Customers;
- (b) Confidentiality of Customer Information;
- (c) Equality of treatment of Retailers;
- (d) Business practices of the Regulated Rate Tariff Provider and the Default Rate Tariff Provider;
- (e) Prevention of any unfair competitive advantage to affiliates of the Regulated Rate Tariff Provider and the Default Rate Tariff Provider;
- (f) The maintenance of separate records and accounts;
- (g) The development of a Compliance Plan and ongoing compliance reports; and
- (h) Compliance Audits.

This Compliance Plan sets out the systems, policies and mechanisms that DEML will rely upon to ensure that the operations of DERS as Regulated Rate Tariff Provider to electricity customers in the ATCO Electric service territory and as Default Rate Tariff Provider to natural gas customers in the ATCO Gas service territory are conducted in a manner that is consistent with the requirements of the ECCR and the GCCR. The Compliance Plan will apply to all DERS Personnel and DERS Agents or Contractors.

DEML will not condone, encourage, or support any activity or behaviour on the part of DEML employees, including DERS Personnel, DERS Agents or Contractors, or DERS Agent or



Contractor Personnel that is inconsistent with the requirements of the Compliance Plan, the ECCR, or the GCCR and is committed to implementing immediate and comprehensive responses to any such activity or behaviour upon becoming aware of it.

The affiliated retailer of DERS is Direct Energy Partnership ("DEP") managed by Direct Energy Marketing Limited. DEP operates under two brand names:

- (a) Direct Energy Preferred; and
- (b) Direct Energy Business Services.

This Compliance Plan will become effective on the date that DERS assumes the role of Regulated Rate Tariff Provider in the ATCO Electric service territory and the role of Default Rate Tariff Provider in the ATCO Gas service territory.

This Compliance Plan describes certain obligations and responsibilities of specified DEML management personnel. Notwithstanding this, and without otherwise reducing or eliminating the obligation and responsibility of the specified DEML management personnel to ensure any specific requirements of this Compliance Plan are satisfied, it is understood that all or a portion of the tasks described in this Compliance Plan may be delegated by the specified DEML management personnel to other DERS Personnel.

Questions or comments concerning the Compliance Plan should be directed to the Vice-President, Regulatory Affairs, Western Region, DEML at 403-290-8863 or [Robert.Hemstock@na.centrica.com](mailto:Robert.Hemstock@na.centrica.com).



---

## II. DEFINITIONS

---

In this Compliance Plan,

**“Aggregated Customer Information”** means information that is received or compiled by DERS to enable it to provide Regulated Services and which is not available to the public but is sufficiently aggregated by DERS so that the information is no longer uniquely associated with a DERS Customer and cannot be used to identify a DERS Customer;

**“Auditor”** means an independent auditor appointed by DERS, and approved by the DERS Compliance Authority pursuant to Part 4 of the ECCR or Part 4 of the GCCR;

**“Board”** means the Alberta Energy and Utilities Board;

**“CICA Handbook”** means the handbook published by the Canadian Institute of Chartered Accountants, as amended from time to time;

**“Compliance Plan”** means the compliance plan of DERS as approved by the MSA made under the authority of the EUA Code of Conduct Regulation or the compliance plan of DERS as approved by the Board pursuant to the GUA Code of Conduct Regulation;

**“Compliance Plan Committee”** means the committee of senior DEML management personnel responsible for overseeing, implementing and monitoring the Compliance Plan, and any necessary changes to the Compliance Plan, as required, which is chaired by the Vice-President, Regulatory Affairs, Western Region, DEML and includes the following individuals:

- (a) President, Canadian Operations, DEML;
- (b) Chief Privacy Officer, DEML;
- (c) Senior Vice-President, Western Region, DEML;
- (d) Vice-President, Business Services, DEML;
- (e) Vice-President, Finance, Western Region, DEML;
- (f) Vice-President, Marketing, Western Region, DEML;
- (g) Vice-President, Energy Procurement, DEML;
- (h) Vice-President and Assistant General Counsel, Western Region, DEML;
- (i) Director, Operations, Western Region, DEML;
- (j) Director, Information Systems, Western Region, DEML; and
- (k) Director, Human Resources, Western Region, DEML;

**“Compliance Plan Committee Report”** means the report prepared quarterly by the Vice-President, Regulatory Affairs, Western Region, DEML, containing the reports provided at, and minutes of, the quarterly meeting of the Compliance Plan Committee;



**“Compliance Plan Contravention Investigation Report”** means the report prepared by the Vice-President, Regulatory Affairs, Western Region, DEML containing details of any alleged DERS contravention of the Compliance Plan, the GCCR, or the ECCR as reported by a Person, directly or indirectly, to the Vice-President, Regulatory Affairs, Western Region, DEML which shall include but not be limited to, the following information:

- (a) Date of the alleged contravention;
- (b) Date of the report of the alleged contravention to a supervisor or senior manager of DEML, or a DERS Agent or Contractor;
- (c) Date of the report of the alleged contravention to the Vice-President, Regulatory Affairs, Western Region, DEML;
- (d) Description of the alleged contravention including the DERS Personnel or DERS Agent or Contractor involved in the alleged contravention;
- (e) Person reporting the alleged contravention;
- (f) The relevant section of the Compliance Plan that applies to the issues raised by the alleged contravention; and
- (g) Conclusions of the Vice-President, Regulatory Affairs, Western Region, DEML regarding the alleged contravention and the date upon which these conclusions were arrived at;

**“Compliance Plan Contravention Report”** means the report that summarizes the details of any DERS contravention of the Compliance Plan, the GCCR, or the ECCR that is prepared by the Vice-President, Regulatory Affairs, Western Region, DEML that shall include the contents of the Compliance Plan Contravention Investigation Report and the measures undertaken by DERS to address any contravention and prevent similar contraventions from occurring in the future;

**“Customer”** means a person purchasing electricity or natural gas for that person’s own use;

**“Customer Information”** means information that is not available to the public and that is uniquely associated with a Customer, could be used to identify a Customer, or is provided by a Customer to DERS, and includes but is not limited to DERS Customer Information;

**“DEML”** means Direct Energy Marketing Limited;

**“DEP”** means Direct Energy Partnership, the affiliated retailer of DERS which operates under the brand names of Direct Energy Preferred and Direct Energy Business Services and is a Retailer in Alberta or a Regulated Rate Tariff Provider in any REA service territory in which the board of directors of the REA has so appointed DEP;



**“DEP ATCO I-Tek Call Centre Personnel”** means employees of ATCO I-Tek that respond to initial inquiries from current or prospective customers of DEP but does not include ATCO I-Tek employees who respond to escalated customer inquiries on behalf of both DERS and DEP;

**“DEP Sales and Marketing Personnel”** means employees and agents or contractors of DEML who provide sales or marketing support or services to DEP in the form of information that is specific to DEP and intended to encourage a Person to enter into a contract for gas services, electricity services or other services with DEP, but does not include DEP ATCO I-Tek Call Centre Personnel;

**“DEP Sales and Marketing Personnel List”** means the list of DEP Sales and Marketing Personnel;

**“Default Rate Tariff Provider”** means DERS, as provider of Gas Services pursuant to a Default Rate Tariff approved by the Board;

**“DERS”** means Direct Energy Regulated Services, a business unit of DEML, who is a Default Rate Tariff Provider in the ATCO Gas service territory, a Regulated Rate Tariff Provider in the ATCO Electric service territory, and a Regulated Rate Tariff Provider in any REA service territory in which the board of directors of the REA has so appointed DERS;

**“DERS Agent or Contractor”** means a Person contracted by DEML to perform functions for, or undertake tasks on behalf of DERS that are necessary for DERS to provide Regulated Services and requires access to DERS Customer Information, but does not include any Person who is designated as DERS Personnel in accordance with this Compliance Plan;

**“DERS Agent or Contractor Customer Information Access Personnel”** means the employees of a DERS Agent or Contractor who require access to DERS Customer Information in order for their employer to fulfil its contractual obligations to DEML to provide goods or services required by DERS to provide Regulated Services and who has been permitted access to DERS Customer Information by a DERS Agent or Contractor;

**“DERS Agent or Contractor Customer Information Access Personnel List”** means the confidential list of DERS Agent or Contractor Customer Information Access Personnel maintained by a DERS Agent or Contractor, which includes a description of the responsibilities of each employee whose name appears on the list;

**“DERS Agent or Contractor List”** means the list of each Person who is a DERS Agent or Contractor but does not include any individual employed by such Person;

**“DERS Agent or Contractor Personnel”** means the employees of a DERS Agent or Contractor who, in the course of their employment, perform functions for, or undertake tasks on behalf of, DERS that are necessary for DERS to provide Regulated Services, but does not include any Person who is designated as DERS Personnel in accordance with this Compliance Plan;



**“DERS Agent or Contractor Personnel List”** means the list of DERS Agent or Contractor Personnel maintained by each DERS Agent or Contractor;

**“DERS Call Centre”** means the facility that houses DERS Personnel or DERS Agents or Contractors whose responsibilities are to interface with the public and DERS Customers regarding the provision of Regulated Services by DERS;

**“DERS Compliance Authority”** means the Board in respect of the oversight of those portions of the Compliance Plan that relate to the provision of regulated Gas Services and the MSA in respect of the oversight of those portions of the Compliance Plan that relate to the provision of regulated Electricity Services;

**“DERS Customer”** means a Customer of DERS who receives Regulated Services;

**“DERS Customer Information”** means information that is not available to the public and that is uniquely associated with a DERS Customer, could be used to identify a DERS Customer, or is provided by a Customer to DERS;

**“DERS Customer Information Access Personnel”** means specified DERS Personnel or any individual employees of a contractor retained by DEML to provide goods or services necessary for DERS to provide Regulated Services who have been granted written permission to access DERS Customer Information by the Vice-President, Regulatory Affairs, Western Region, DEML or the Senior Vice-President, Western Region, DEML in accordance with this Compliance Plan;

**“DERS Customer Information Access Personnel List”** means the list of DERS Customer Information Access Personnel;

**“DERS Customer Information Request Personnel”** means the specified DERS Customer Information Access Personnel and DERS Agent or Contractor Customer Information Access Personnel who have authority from the Vice-President, Regulatory Affairs, Western Region, DEML to approve the release of DERS Customer Information to a Person by DERS Customer Information Access Personnel or DERS Agent or Contractor Customer Information Access Personnel, upon DERS receiving the proper consent of a Customer;

**“DERS Customer Information Request Personnel List”** means the list of specified DERS Customer Information Request Personnel;

**“DERS Personnel”** means the Alberta based employees of DEML who, in their capacity as an employee of DEML, provide services to DERS or other individuals not employed by DEML that perform functions for, or undertake tasks on behalf of, DERS who are designated as DERS Personnel in accordance with this Compliance Plan;

**“DERS Personnel List”** means the list of DERS Personnel;

**“DERS Retailer and Customer Meeting Log”** means the report prepared by the Vice-President, Regulatory Affairs, Western Region, DEML containing details of meetings held between DERS and Retailers which shall include but not be limited to, the following information:



- (a) The date of the request made by the Retailer to DERS to attend a meeting;
- (b) The date DERS responded to the request made by the Retailer to DERS to attend a meeting;
- (c) The date the meeting was held between DERS and the Retailer or Customer;
- (d) A description of the purpose of the meeting and details of the substance of the discussion and conclusions arrived at;
- (e) The Persons who were in attendance at the meeting; and
- (f) A summary of the issues discussed at the meeting and any requirements for follow up by DERS;

**“DERS Terms and Conditions”** means the DERS Gas Default Rate Tariff, Terms and Conditions of Default Rate Service and the DERS Electricity Regulated Rate Tariff, Terms and Conditions of Regulated Rate Service, as approved by the Board;

**“Electricity Services”** means the services associated with providing electricity to a person;

**“Electronic Customer Information Repository”** means a separate password protected electronic repository that contains Customer Information, and has the equivalent standard of security protocol of other data repositories created and maintained by the Person that has primary control and operation of the electronic repository;

**“Electronic Customer Information Repository Description”** means a document that includes the following information relating to each Electronic Customer Information Repository:

- (a) Name, being a description of the name of the Electronic Customer Information Repository;
- (b) Description, being a summary of the nature of the Electronic Customer Information Repository and its general purpose;
- (c) Owner, being a description of the beneficial owner or licensee of the Electronic Customer Information Repository;
- (d) Customer Base Served, being a description of the DERS Customers or the DEP Customers that are served by the Electronic Customer Information Repository;
- (e) Data Type, being a notation of whether the Electronic Customer Information Repository contains Customer Information and/or Aggregated Customer Information;
- (f) Format, being a notation of whether the data in the Electronic Customer Information Repository is stored in a file or database format;
- (g) Accessible By, being a list of those individuals who shall have access to the Electronic Customer Information Repository, pursuant to the approval of the Vice-President, Regulatory Affairs, Western Region, DEML; and



(h) Compliance Requirements, being a list of the provisions of the Compliance Plan that apply to the Electronic Customer Information Repository;

**“Electronic Customer Information Repository List”** means a list of the Electronic Customer Information Repositories maintained and operated by DERS;

**“ECCR”** means the Electricity Code of Conduct Regulation made under the authority of the EUA;

**“EUA”** means the *Electric Utilities Act*;

**“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;

**“Gas Services”** means the services associated with providing gas to a person;

**“GCCR”** means the Gas Code of Conduct Regulation made under the authority of the GUA;

**“GUA”** means the *Gas Utilities Act*;

**“MSA”** means the Market Surveillance Administrator, a corporation established by section 42 of the EUA;

**“Person”** includes an individual or a corporation and the heirs, executors, administrators or other legal representatives of a person;

**“REA”** means Rural Electrification Association;

**“Regulated Rate Tariff Provider”** means DERS, as provider of Electricity Services pursuant to a Regulated Rate Tariff approved by the Board;

**“Regulated Services”** means Electricity Services or Gas Services that are provided by DERS or DEP or the access to which or the use of which is controlled by DERS or DEP pursuant to a Default Rate Tariff approved by the Board, or a Regulated Rate Tariff approved by the Board or the board of directors of an REA, and the costs of which are recoverable under rates approved by the Board or the board of directors of an REA;

**“Retailer”** means a person who sells or provides unregulated Electricity Services or unregulated Gas Services directly to a person;

**“Retail Services”** means unregulated Electricity Services and unregulated Gas Services provided by a Retailer.





---

### III. CONDUCT OF DIRECT ENERGY REGULATED SERVICES

---

#### (A) BEHAVIOUR OF DERS (ECCR SECTION 3, GCCR SECTION 3)

**DERS Policy 1:** DERS Personnel and DERS Agent or Contractor Personnel shall conduct their activities in a manner so as to comply with and ensure compliance with the ECCR, the GCCR, and this Compliance Plan.

**Mechanism 1:** Only DERS Personnel and DERS Agent or Contractor Personnel shall perform functions for or undertake tasks on behalf of DERS that are necessary for DERS to provide Regulated Services. The Vice-President, Regulatory Affairs, Western Region, DEML shall designate DERS Personnel and maintain and update the DERS Personnel List on an ongoing basis. Only an officer of a DERS Agent or Contractor shall designate DERS Agent or Contractor Personnel and maintain and update the DERS Agent or Contractor Personnel List on an ongoing basis.

**Mechanism 2:** DERS Personnel and DERS Agent or Contractor Personnel will be informed of the applicable requirements of the GCCR, the ECCR, and the applicable requirements of the Compliance Plan by being required to: (a) read the Compliance Plan and, (b) attend a training session, or alternatively review a videotape of a previously held training session, designed to address the applicable sections of the Compliance Plan. The timing of completion of this requirement is as follows:

- (a) For existing DERS Personnel or DERS Agent or Contractor Personnel, prior to the later of DERS providing Regulated Services to Customers in the ATCO Gas and ATCO Electric service territories or DEP providing Retail Services in Alberta; or
- (b) For DERS Personnel or DERS Agent or Contractor Personnel hired following the later of the events described in (a), prior to the commencement date of the DERS Personnel or DERS Agent or Contractor Personnel providing services to DERS in support of DERS' obligation to provide Regulated Services to Customers in the ATCO Gas and ATCO Electric service territories.

**Mechanism 3:** DERS Personnel and DERS Agent or Contractor Personnel will be informed of their obligation to immediately seek answers to all questions regarding the Compliance Plan and its impact on the specific role they perform in the provision of services to DERS from their immediate supervisor in the first instance and if there remains any doubt or confusion regarding an answer provided to a question the supervisor shall escalate the inquiry to a member of the Compliance Plan Committee or senior management personnel of the DERS Agent or Contractor, as appropriate. If there remains any doubt or confusion regarding an answer to a question, the member of the Compliance Plan Committee or senior management personnel of the DERS Agent or Contractor shall refer the matter to the Vice-President, Regulatory Affairs, Western Region, DEML.



**Mechanism 4:** DERS Personnel and DERS Agent or Contractor Personnel will be required to execute an acknowledgement in the form of Appendix A acknowledging he/she has read this Compliance Plan and understands the obligations of DERS, and his/her personal obligations, under the Compliance Plan. If the Compliance Plan is amended, the amended provisions will be provided to the DERS Personnel and the DERS Agent or Contractor Personnel to whom the amendment applies within 60 days of the date of the amendment coming into force and a supplementary acknowledgement will be obtained within this 60 day period.

**Mechanism 5:** Within 30 days after the end of each calendar year, all DERS Personnel whose names appear on the DERS Personnel List on December 31 of the prior calendar year and all DERS Agent or Contractor Personnel whose names appear on the DERS Agent or Contractor Personnel List on December 31 of the prior calendar year, will be required to review this Compliance Plan and execute a confirmation in the form of Appendix B confirming that he/she has undertaken the required review of the Compliance Plan and has acted in accordance with the requirements of this Compliance Plan during the prior calendar year.

**Mechanism 6:** The Compliance Plan, GCCR and ECCR will be posted on the DERS website for viewing by the public, DERS Personnel, and DERS Agents or Contractors, and DERS Agent or Contractor Personnel on or before the date upon which both DERS begins to provide Regulated Services and any affiliated retailer of DERS begins to provide Retail Services;

**Mechanism 7** The Vice-President, Regulatory Affairs, Western Region, DEML, will review the contents of the DERS website on a quarterly basis to confirm the information posted by DERS on the DERS website is current and accurate. A record of this review shall be maintained by the Vice-President, Regulatory Affairs, Western Region, DEML and be available to the Auditor.

**Mechanism 8:** Adherence to the Compliance Plan, the ECCR, and the GCCR by DERS Personnel, DERS Agent or Contractor Personnel, and a DERS Agent or Contractor will be an important consideration taken into account by DERS in its assessment of the performance of DERS Personnel and the DERS Agent or Contractor. Breach of the Compliance Plan by DERS Personnel may result in disciplinary action, up to and including termination of employment or contract with DEML. Breach of the Compliance Plan by DERS Agent or Contractor Personnel or a DERS Agent or Contractor may result in sanctions being imposed upon the DERS Agent or Contractor by DERS or DEML, up to and including termination or non-renewal of a contractual relationship between DERS or DEML and the DERS Agent or Contractor.



---

## IV. EQUALITY OF TREATMENT FOR CUSTOMERS

---

### (A) TYING PROHIBITED (ECCR SECTION 4, GCCR SECTION 4)

**DERS Policy 1:** DERS Personnel and DERS Agent or Contractor Personnel shall not require or induce customers to purchase any goods or services from DEP, or any other Retailer, by making or appearing to make the provision of Regulated Services, services provided by the owner of a gas distribution system, or services provided by the owner of an electric distribution system conditional on those purchases.

**Mechanism 1:** DERS consumer awareness and education materials and other DERS communications that will be distributed to the public or to DERS Customers, through the DERS billing envelope or otherwise, must be reviewed and approved in writing by one of the following management personnel of DEML for compliance with the GCCR and/or ECCR prior to any communication of the information contained in these materials being distributed to the public or to DERS Customers:

- (a) Vice-President, Marketing, Western Region, DEML;
- (b) Vice-President, Regulatory Affairs, Western Region, DEML; or
- (c) Senior Vice-President, Western Region, DEML.

A record of this written approval and the associated materials approved will be maintained by the Vice-President, Regulatory Affairs, Western Region, DEML for review by the Auditor.

**Mechanism 2:** DERS Call Centre scripting and/or written communication directives, and revisions or updates thereto, must be reviewed and approved in writing by one of the following management personnel of DEML for compliance with the GCCR and/or ECCR prior to any communication of the information contained in these materials being made to the public or to DERS Customers:

- (a) Director, Operations, Western Region, DEML;
- (b) Vice-President, Marketing, Western Region, DEML;
- (c) Vice-President, Regulatory Affairs, Western Region, DEML; or
- (d) Senior Vice-President, Western Region, DEML.

A record of this written approval and the associated materials approved shall be maintained by the Vice-President, Regulatory Affairs, Western Region, DEML for review by the Auditor.

**Mechanism 3:** The Director, Operations, Western Region, DEML will co-ordinate, at least once per quarter, a process of testing the information provided by the DERS Call Centre to DERS Customers and the public by submitting a minimum of ten (10) telephone inquiries to the DERS Call Centre with a view to determining if the information



provided by the DERS Call Centre is consistent with any scripting or written communication directives being utilized by the DERS Call Centre. The Director, Operations, Western Region, DEML will prepare a written report for submission to the Compliance Plan Committee describing the results of the testing and provide this written report to the Vice-President, Regulatory Affairs, Western Region, DEML who shall maintain a copy of this report for review by the Auditor.

### **(B) TRANSFER OF CUSTOMERS (ECCR SECTION 5, GCCR SECTION 5)**

**DERS Policy 1:** DERS Personnel and DERS Agent or Contractor Personnel shall co-operate fully with ATCO Gas and ATCO Electric and a Retailer, to the extent necessary, to ensure the timely transfer of a DERS Customer from Regulated Services to Retail Services.

**DERS Policy 2:** Under no circumstances shall DERS Personnel or DERS Agent or Contractor Personnel transfer a DERS Customer to another retail gas services tariff or another retail electricity services tariff without the written consent of the Customer, or a direction from the Board, to do so.

### **(C) REPRESENTATIONS (ECCR SECTION 6, GCCR SECTION 6)**

**DERS Policy 1:** DERS Personnel or DERS Agent or Contractor Personnel shall not represent or imply in any way in communications with DERS Customers or in communications with the public that present or future customers of DEP will receive treatment from DERS, ATCO Gas or ATCO Electric that is different from the treatment received by present or future Customers of other Retailers.

**Mechanism 1:** Same as Mechanism 1 under DERS Policy 1 in Section IV.(A).

**Mechanism 2:** Same as Mechanism 2 under DERS Policy 1 in Section IV.(A).

**Mechanism 3:** Same as Mechanism 3 under DERS Policy 1 in Section IV.(A).

**(D) ADVERTISING (ECCR SECTION 7, GCCR SECTION 7)**

**DERS Policy 1:** Unless the DERS Compliance Authority advises DERS, in writing, that it has made a determination that the name and logo used by DERS and the names and logos used by DEP clearly indicate they are separate entities, the Compliance Plan Committee shall ensure that DEP includes the conspicuous statements described in section 7 of the ECCR and section 7 of the GCCR in any internet text or written material published or sent that markets Retail Services.

**Mechanism 1:** Same as Mechanism 1 under DERS Policy 1 in Section IV.(A).

**Mechanism 2:** The Vice-President, Regulatory Affairs, Western Region, DEML will obtain confirmation, in writing, from the DERS Compliance Authority of its determination that the name and logo used by DERS and the names and logos used by DEP, clearly indicates they are separate entities prior to DEP removing the conspicuous statements described in section 7 of the ECCR and section 7 of the GCRR in any internet text or written material published or sent by DEP that markets Retail Services.

**(E) MEETINGS BY DERS WITH RETAILERS AND CUSTOMERS (ECCR SECTION 8, GCCR SECTION 8)**

**DERS Policy 1:** DERS Personnel shall be equally accessible to each Retailer to attend joint meetings with the Retailer and Customers of the Retailer.

**Mechanism 1:** The Vice-President, Regulatory Affairs, Western Region, DEML will maintain the DERS Retailer and Customer Meeting Log that records the details of any request made to DERS by a Retailer for attendance at any meeting with the Retailer and a Customer of the Retailer.



---

## V. CONFIDENTIALITY OF CUSTOMER INFORMATION

---

### (A) CONFIDENTIALITY RULE, DISCLOSURE OF CUSTOMER INFORMATION, AND DISCLOSURE TO TWO OR MORE RETAILERS, CONDITIONS ON DISCLOSURE, AND HISTORICAL CONSUMPTION (ECCR SECTIONS 9, 10, 11, 12 AND 13, GCCR SECTIONS 9, 10, 11, 12 AND 13)

**DERS Policy 1:** DERS Personnel and DERS Customer Information Access Personnel shall protect the confidentiality and security of Customer Information and shall not disclose DERS Customer Information to any Person other than an individual whose name appears on:

- (a) The DERS Customer Information Access Personnel List; or
- (b) The whole or any part of the DERS Agent or Contractor Customer Information Access Personnel List that is provided by the DERS Agent or Contractor to DERS.

**Mechanism 1:** DERS Personnel shall only be appointed DERS Customer Information Access Personnel upon approval in writing by the:

- (a) Vice-President, Regulatory Affairs, Western Region, DEML; or
- (b) Senior Vice-President, Western Region, DEML.

A record of this written approval shall be maintained by the Vice-President, Regulatory Affairs, Western Region, DEML and made available to the Auditor.

**Mechanism 2:** The DERS Customer Information Access Personnel List and the whole or any part of the DERS Agent or Contractor Customer Information Access Personnel List that is provided by the DERS Agent or Contractor to DERS will be updated and circulated quarterly to DERS Customer Information Access Personnel by the Vice-President, Regulatory Affairs, Western Region, DEML.

**Mechanism 3:** DERS Customer Information in the form of electronic data will be maintained and stored only in an Electronic Customer Information Repository accessible by DERS Customer Information Access Personnel whose names appear on the DERS Customer Information Access Personnel List. DERS Customer Information shall be accessible by DERS Customer Information Access Personnel in secure work premises that are not accessible by individuals other than employees of DEML and guests of employees of DEML, except that at no time whatsoever shall these secure work premises be accessible to DEP Sales and Marketing Personnel. DERS Customer Information shall also be accessible to DERS Customer Information Access Personnel outside of their secure work premises through a secure password protected electronic connection to the Electronic Customer Information Repository.



**Mechanism 4:** DERS Personnel who obtain or receive DERS Customer Information in a non-electronic form shall not make use of the DERS Customer Information and shall forthwith report such occurrence to their supervisor. The supervisor shall monitor the frequency of any occurrences of DERS Personnel receiving DERS Customer Information and implement additional measures or safeguards, as necessary, to prevent the future improper disclosure of DERS Customer Information to DERS Personnel.

**Mechanism 5:** DERS Personnel who obtain or receive DERS Customer Information as a result of intentionally or unintentionally gaining access to an Electronic Customer Information Repository that contains DERS Customer Information shall forthwith report such occurrence to their supervisor. The supervisor shall ensure the occurrence is communicated to the Vice-President, Regulatory Affairs, Western Region, DEML, who shall prepare a Compliance Plan Contravention Report.

**Mechanism 6:** On at least a quarterly basis, the Director, Information Systems, Western Region, DEML shall undertake a review of each Electronic Customer Information Repository maintained by DERS that contains DERS Customer Information and confirm that no DEP Sales and Marketing Personnel have electronic access to any Electronic Customer Information Repository maintained by DERS that contains DERS Customer Information. The Director, Information Systems, Western Region, DEML shall prepare a report summarizing the process undertaken to complete the review and the results of the review and provide a copy of this report to the Vice-President, Regulatory Affairs, Western Region, DEML. If the report indicates any DEP Sales and Marketing Personnel have obtained electronic access to any Electronic Customer Information Repository maintained by DERS that contains DERS Customer Information, the Vice-President, Regulatory Affairs, Western Region, DEML shall prepare a Compliance Plan Contravention Report.

**Mechanism 7:** The Director, Information Systems, Western Region, DEML will prepare or update, if necessary, the Electronic Customer Information Repository Description for each Electronic Customer Information Repository maintained by DERS, on a quarterly basis, and provide any updated Electronic Customer Information Repository Description and updated Electronic Customer Information Repository List to the Vice-President, Regulatory Affairs, Western Region, DEML.

**Mechanism 8:** The Vice-President, Regulatory Affairs, Western Region, DEML will be required on a quarterly basis to approve, in writing, the content of the accessibility field in each Electronic Customer Information Repository Description associated with an Electronic Customer Information Repository maintained by DERS to ensure the access rights are consistent with the access granted under the Compliance Plan, and will maintain a written record of such approvals.

**Mechanism 9:** Arrangements for the off-site storage of DERS Customer Information in locations that are not secure premises of DERS or a DERS Agent or Contractor, will be made only by DERS Customer Information Access Personnel or by DERS Agent or Contractor Customer Information Access Personnel. The off-site storage facility must



have security features that will allow DERS or a DERS Agent or Contractor to restrict access to the off-site storage only to individuals whose names appear on the DERS Customer Information Access Personnel List, the DERS Agent or Contractor Customer Information Access Personnel List, and employees of the off-site storage facility.

**DERS Policy 2:** DEP Sales and Marketing Personnel shall not, under any circumstances, be permitted access to DERS Customer Information or enter any secure work premises occupied by DERS Customer Information Access Personnel.

**Mechanism 1:** The DEP Sales and Marketing Personnel List will be maintained and updated quarterly by the Vice-President, Regulatory Affairs, Western Region, DEML and will be circulated to those individuals whose names appear on the DERS Customer Information Access Personnel List.

**Mechanism 2:** DEP Sales and Marketing Personnel who obtain or receive DERS Customer Information shall not make use of the DERS Customer Information and shall forthwith report such occurrence to his/her supervisor. The supervisor shall ensure the occurrence is communicated to the Vice-President, Regulatory Affairs, Western Region, DEML, who shall prepare a Compliance Plan Contravention Report and immediately provide the Compliance Plan Contravention Report to the Compliance Plan Committee.

**Mechanism 3:** DERS Personnel who become aware of any DEP Sales and Marketing Personnel obtaining or receiving DERS Customer Information shall forthwith report such occurrence to his/her supervisor. The supervisor shall ensure the occurrence is communicated to the Vice-President, Regulatory Affairs, Western Region, DEML, who shall prepare a Compliance Plan Contravention Report and immediately provide the Compliance Plan Contravention Report to the Compliance Plan Committee.

**Mechanism 4:** On a quarterly basis, the Vice-President, Regulatory Affairs, Western Region, DEML shall undertake a review of the premises access card authorizations provided to DEP Sales and Marketing Personnel to confirm that no DEP Sales and Marketing Personnel possesses an access card that would allow him/her access to any secure work premises occupied by DERS Customer Information Access Personnel. A written report describing the process undertaken to complete the review and the results of the review shall be made available to the Auditor.

**DERS Policy 3:** DERS Agent or Contractor Customer Information Access Personnel shall protect the confidentiality and security of DERS Customer Information and shall not disclose DERS Customer Information to any Person other than an individual whose name appears on the DERS Customer Information Access Personnel List or an individual whose name appears on the DERS Agent or Contractor Customer Information Access Personnel List prepared by that DERS Agent or Contractor.

**Mechanism 1:** The Vice-President, Regulatory Affairs, Western Region, DEML shall maintain and update on a quarterly basis the DERS Agent or Contractor List.





**Mechanism 2:** An officer of the DERS Agent or Contractor must approve, in writing, the appointment of any DERS Agent or Contractor Personnel or employee of a sub-contractor of the DERS Agent or Contractor as DERS Agent or Contractor Customer Information Access Personnel. A record of this written approval and the corresponding DERS Agent or Contractor Customer Information Access Personnel List will contain a description of the responsibilities of each DERS Agent or Contractor Customer Information Access Personnel. The record of written approval will be maintained and made available, upon request, by the DERS Agent or Contractor to the Vice-President, Regulatory Affairs, Western Region, DEML or the Auditor.

**Mechanism 3:** The Vice-President, Regulatory Affairs, Western Region, DEML will at least semi-annually:

- (a) Review the DERS Agent or Contractor Customer Information Access Personnel List maintained by each DERS Agent or Contractor to confirm the description of responsibilities associated with each individual on the list reflect responsibilities that are necessary for the DERS Agent or Contractor to support DERS in the provision of Regulated Services;
- (b) Review the appropriateness of continued approval of any individual employees of a contractor retained by DEML to provide goods or services necessary for DERS to provide Regulated Services as DERS Customer Information Access Personnel;
- (c) In the case of ATCO I-Tek, instruct the Director, Operations, Western Region, DEML to attend at the offices of ATCO I-Tek and select at least 20 samples of the written appointments approved in writing by an officer of ATCO I-Tek as required by Mechanism 2, to confirm the description of responsibilities associated with each individual in the sample reflects responsibilities that are necessary for ATCO I-Tek to support DERS in the provision of Regulated Services; and
- (d) In the case of ATCO I-Tek, instruct the Director, Information Systems, DEML to attend at the offices of ATCO I-Tek and randomly select at least 20 samples of I-Tek employees who have not been granted access by ATCO I-Tek to DERS Customer Information and confirm by a review of the database access approvals that these randomly selected employees have been granted, that none of these ATCO I-Tek employees enjoy electronic access to DERS Customer Information. The Director, Information Systems, Western Region, DEML shall prepare a report summarizing the process undertaken to complete the review and the results of the review and provide a copy of this report to the Vice-President, Regulatory Affairs, Western Region, DEML.

The findings of these reviews shall be reported, in writing, to the Compliance Plan Committee by the Vice-President, Regulatory Affairs, Western Region, DEML at the quarterly meeting that follows these reviews and shall be made available to the Auditor.



**Mechanism 4:** DERS Agent or Contractor Personnel whose name does not appear on the DERS Agent or Contractor Customer Information Access Personnel List who obtains or receives DERS Customer Information shall not make use of the DERS Customer Information and shall forthwith report such occurrence to his/her supervisor. The supervisor shall monitor the frequency of any such occurrences and implement additional measures, as necessary, to prevent the future improper disclosure of DERS Customer Information.

**Mechanism 5:** DEP ATCO I-Tek Call Centre Personnel shall be entitled to share premises with employees of ATCO I-Tek that are DERS Agent or Contractor Customer Information Access Personnel provided that:

- (a) No financial incentive or payment regime exists between DEML or DEP and ATCO I-Tek under which the DEP ATCO I-Tek Call Centre Personnel or ATCO I-Tek receive any incremental compensation or payment of any sort whatsoever that is based on the decision by a Customer to enter into an energy supply contract with DEP;
- (b) DEP ATCO I-Tek Call Centre Personnel shall not be eligible to be appointed by an officer of ATCO I-Tek as DERS Agent or Contractor Customer Information Access Personnel;
- (c) If any DEP ATCO I-Tek Call Centre Personnel obtains access to an electronic database that contains DERS Customer Information, he/she shall not make use of the DERS Customer Information and shall be required by ATCO I-Tek to report such occurrence to his/her supervisor in writing. The supervisor shall forward all such written reports to a designated officer of ATCO I-Tek who shall forthwith take appropriate steps to avoid the recurrence of such inappropriate access to electronic DERS Customer Information;
- (d) If any DEP ATCO I-Tek Call Centre Personnel receives any physical documents that contain DERS Customer Information, he/she shall not make use of the DERS Customer Information and shall be required by ATCO I-Tek to report such occurrence to his/her supervisor in writing. The supervisor shall forward all such written reports to a designated officer of ATCO I-Tek who shall forthwith take appropriate steps to avoid the recurrence of such inappropriate access to DERS Customer Information, and;
- (e) ATCO I-Tek shall forward a copy of any written reports prepared in accordance with subsections (c) and (d), and a written description of the steps taken by ATCO-I-Tek to avoid the recurrence of such inappropriate access, to the Vice-President, Regulatory Affairs, Western Region, DEML who shall maintain a record of such reports for review by the Auditor.



**DERS Policy 4:** DEP Sales and Marketing Personnel shall not, under any circumstances, be permitted access to DERS Customer Information or enter any secure work premises occupied by DERS Agent or Contractor Customer Information Access Personnel.

**Mechanism 1:** The DERS Agent or Contractor Customer Information Access Personnel List will be maintained and updated quarterly by a member of the senior management of the DERS Agent or Contractor. The DERS Agent or Contractor Customer Information Access Personnel List and the DERS Customer Information Access Personnel List will be circulated quarterly by a member of the senior management of the DERS Agent or Contractor only to individuals whose names appear on the DERS Agent or Contractor Customer Information Access Personnel List so each employee of the DERS Agent or Contractor is aware of the identity of others who are authorized to receive DERS Customer Information.

**Mechanism 2:** DERS Customer Information in the form of electronic data will be maintained and stored in an Electronic Customer Information Repository maintained by the DERS Agent or Contractor and accessible by DERS Agent or Contractor Customer Information Access Personnel whose names appear on the DERS Agent or Contractor Customer Information Access Personnel List. DERS Customer Information shall be accessible in secure work premises that are not accessible by individuals other than the employees of the DERS Agent and Contractor, and their guests, except that at no time shall the secure premises of the DERS Agent and Contractor be accessible to DEP Sales and Marketing Personnel. DERS Customer Information shall also be accessible by DERS Agent or Contractor Customer Information Access Personnel outside of their work premises through a secure password protected electronic connection to the Electronic Customer Information Repository of equivalent standard of other secure password protected electronic connections utilized by the DERS Agent or Contractor to provide access to its employees to other DERS Agent or Contractor databases.

**Mechanism 3:** The DEP Sales and Marketing Personnel List will be maintained and updated quarterly by the Vice-President, Regulatory Affairs, Western Region, DEML and provided to the DERS Agent and Contractor for circulation by the DERS Agent and Contractor to those individuals whose names appear on the DERS Agent and Contractor Customer Information Access Personnel List.

**DERS Policy 5:** DERS Customer Information Access Personnel and DERS Agent or Contractor Customer Information Access Personnel who have direct interaction with DERS Customers shall not access an Electronic Customer Information Repository containing DERS Customer Information at any time during which he/she is providing services to DEP.

**Mechanism 1:** The Vice-President, Regulatory Affairs, Western Region, DEML shall on a quarterly basis circulate a written notice to all DERS Customer Information Access Personnel reminding them of this requirement. A copy of the written notice shall be maintained and made available to the Auditor.



**Mechanism 2:** An officer of the DERS Agent or Contractor shall on a quarterly basis circulate a written notice to all DERS Agent or Contractor Customer Information Access Personnel reminding them of this requirement. A copy of the written notice shall be maintained and made available to the Auditor.

**Mechanism 3:** In the case of ATCO I-Tek, a member of the I-Tek Quality Assurance Group shall undertake at least one physical observation per month of the I-Tek employees that have direct interaction with DERS Customers and also provide services to DEP to monitor compliance with this policy, and the results of this physical observation shall be maintained and made available to the Auditor.

**DERS Policy 6:** DERS Customer Information Request Personnel are the only individuals that shall have authority to authorize the release of Customer Information by DERS Customer Information Access Personnel or DERS Agent or Contractor Customer Information Access Personnel to a Person.

**Mechanism 1:** The Director, Operations, Western Region, DEML shall maintain the DERS Customer Information Request Personnel List and ensure that only individuals whose names appear on this list shall engage in the release of Customer Information in response to a written request of a DERS Customer to do so.

**DERS Policy 7:** DERS will respond to requests for Customer Information from all Customers and Retailers under the same terms and conditions, including the timing of the release and the format of the information released.

**Mechanism 1:** DERS Customer Information Request Personnel and DERS Agent or Contractor Customer Information Request Personnel will receive specific direction and oversight from the Director of Operations, Western Region, DEML regarding the scrutiny of the content of the form of consent required by the GCCR and ECCR for DERS to release Customer Information. DERS will only accept an electronic or written consent and will not accept a verbal consent from a Customer to release his/her Customer Information.

**Mechanism 2:** The Director, Operations, Western Region, DEML will ensure a paper or electronic copy of each written consent form is retained by DERS for a period of two years from the date on the consent form. The Director, Operations, Western Region, DEML will maintain a database of information related to customer consents that will track the following information:

- (a) The date the consent to disclose Customer Information was received by DERS;
- (b) The Customer Information that is authorized to be disclosed by the Customer;
- (c) The period of time that the Customer consent to release Customer Information is in effect;



- (d) Whether the consent of the Customer authorizes the Customer Information to be released to one, some, or all Retailers, and if the consent is limited to one or some Retailers, the name(s) of the Retailer(s);
- (e) The date the Customer Information is released by DERS to a Retailer, or Retailers; and
- (f) The DERS Customer Information Request Personnel List.

**(B) AGGREGATED CUSTOMER INFORMATION (ECCR SECTION 14, GCCR SECTION 14)**

**DERS Policy 1:** DERS will make available Aggregated Customer Information to all Retailers under the same terms and conditions, including the timing of the release and the format of the information released.

**Mechanism 1:** At least 24 hours before Aggregated Customer Information is made available by DERS to a Retailer, DERS will:

- (a) Distribute an email notice to all Retailers listed on the Government of Alberta Customer Choice website containing a clear description of the Aggregated Customer Information available, the DERS charge for providing the Aggregated Customer Information, the terms of payment required, and the time frame within which the Aggregated Customer Information will be provided following receipt of payment; and
- (b) Place on the DERS website, a notice containing a clear description of the Aggregated Customer Information available, the DERS charge for providing the Aggregated Customer Information, the terms of payment required, and the time frame within which the Aggregated Customer Information will be provided following receipt of payment. DERS shall maintain such notice on its website for a minimum of 30 days.

**Mechanism 2:** The Vice-President, Regulatory Affairs, Western Region, DEML will maintain a database of the Aggregated Customer Information provided to all Retailers. The database will track the following information:

- (a) A summary description of the Aggregated Customer Information that has been made available by DERS, including the date of the email notice, the date the Aggregated Customer Information is made available on the DERS website, and the date the Aggregated Customer Information was removed from the DERS website;
- (b) The Aggregated Customer Information;
- (c) The DERS charge for providing the Aggregated Customer Information;



- (d) A record of all requests received from Retailers for the Aggregated Customer Information, including the date of the request; and
- (e) The date the Aggregated Customer Information was made available by DERS to each Retailer that requested the information.



---

## VI. EQUALITY OF TREATMENT OF RETAILERS

---

### (A) EQUAL TREATMENT (ECCR SECTION 15, GCCR SECTION 15)

**DERS Policy 1:** Unless otherwise permitted by the EUA, GUA or the regulations made under the EUA or GUA, the DERS Terms and Conditions shall not:

- (a) Give preferential treatment to DEP, or to customers of DEP;
- (b) Discriminate against any Retailer or Customers of any Retailer.

**Mechanism 1:** The DERS Terms and Conditions must be approved by the Board and will be posted on the DERS website.

**Mechanism 2:** DERS Personnel will acknowledge in the Compliance Acknowledgement that he/she will not give preferential treatment to affiliates of DERS or customers of affiliates and will not discriminate against any Retailer or against the customers of any Retailer.

### (B) EQUAL NOTICE OF CHANGES (ECCR SECTION 16, GCCR SECTION 16)

**DERS Policy 1:** Consideration and implementation of changes by DERS to its Regulated Services or the DERS Terms and Conditions shall be communicated to Retailers at the same time.

**Mechanism 1:** If DERS contemplates changes to its Regulated Services or the DERS Terms and Conditions and determines, in its discretion, to receive input from stakeholders, including Retailers, the disclosure of any intended changes by DERS will be made on the DERS website so all Retailers receive notice of the change at the same time.

**Mechanism 2:** DERS will receive input from those Retailers that desire to provide input regarding changes to its Regulated Services or the DERS Terms and Conditions in a consistent manner from stakeholders using the same channel of communication. DERS shall maintain a record of its communication with Retailers regarding its discussions of intended changes to its Regulated Services or the DERS Terms and Conditions.



---

## VII. BUSINESS PRACTICE OF DIRECT ENERGY REGULATED SERVICES

---

### (A) CONDITIONS OF ACCESS TO WRITTEN COMMUNICATIONS WITH RETAILERS (ECCR SECTION 17, GCCR SECTION 17)

**DERS Policy 1:** Subject to any direction from the Board or MSA, DERS shall determine, in its sole and exclusive discretion, whether a Retailer shall be allowed access to the DERS written communications, including billing envelopes, with customers for sales or marketing purposes. Access by a Retailer to the DERS billing envelope shall be limited to a separate document inserted into the billing envelope.

**Mechanism 1:** If DERS allows a retailer access to DERS' written communications, including billing envelopes, with customers for sales or marketing purposes the communication by the retailer will conspicuously:

- (a) State that customers are free to choose other retailers, and
- (b) Refer the customer to a source where the customer may obtain the current list of licenced retailers maintained in accordance with the *Fair Trading Act* and the regulations under that Act.

**DERS Policy 2:** DERS shall not include a reference to any Retailer on the DERS bill.

**Mechanism 1:** One of the following individuals must review and approve, in writing, the message text that will be placed on the DERS bill prior to the distribution of the bill to ensure compliance with the Compliance Plan, the ECCR, and the GCCR:

- (a) Senior Vice-President, Western Region, DEML;
- (b) Vice-President, Regulatory Affairs, Western Region, DEML or
- (c) Vice-President, Marketing, Western Region, DEML.

The Vice-President, Regulatory Affairs, Western Region, DEML shall maintain a written record of all message text that is approved for inclusion on the DERS bill for review by the Auditor.

### (B) PROHIBITIONS (ECCR SECTION 18, GCCR SECTION 18)

**DERS Policy 1:** DERS Personnel and DERS Agent or Contractor Personnel shall not:

- (a) Give information to a Person, including a DERS Customer, about Retail 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) Give the appearance to a Person, including a DERS Customer, that he/she or DERS is speaking on behalf of a Retailer; or
- (d) Give a Person, including a DERS Customer, advice or assistance about a Retailer, except to refer a Customer to a source where the Customer may obtain the current list of licensed Retailers maintained in accordance with the *Fair Trading Act* and the regulations under that Act.

**Mechanism 1:** Same as Mechanism 1 under DERS Policy 1 in Section IV.(A).

**Mechanism 2:** Same as Mechanism 2 under DERS Policy 1 in Section IV.(A).

**Mechanism 3:** Same as Mechanism 3 under DERS Policy 1 in Section IV.(A).

**DERS Policy 2:** DERS shall not permit website users to access web pages relating to Retail Services from web pages related to Regulated Services, or vice versa, unless a warning is displayed immediately when one website is accessed from the other that conspicuously:

- (a) States that customers are free to choose other Retailers; and
- (b) Refers the customer to a source where the customer may obtain the current list of licenced retailers maintained in accordance with the *Fair Trading Act* and the regulations under that Act.

**Mechanism 1:** Any link between the DERS website and any other website will be approved, in writing, by the Vice-President, Regulatory Affairs, Western Region, DEML before the link is established. A record of such approval shall be maintained by the Vice-President, Regulatory Affairs, Western Region, DEML.

**DERS Policy 3:** DERS shall not allow the use of the DERS brand by any Retailer in a billing insert that is enclosed in the DERS billing envelope.

**Mechanism 1:** Same as Mechanism 1 under DERS Policy 1 in Section IV.(A)



## VIII. PREVENTING UNFAIR COMPETITIVE ADVANTAGE

### (A) EFFICIENCY WITHOUT UNFAIR COMPETITION (ECCR SECTION 19, GCCR SECTION 19)

**DERS Policy 1:** All sharing of costs between DERS and DEP shall reflect the appropriate allocation and recording of the economic benefits or costs between DERS and DEP and shall be tracked in separate records and accounts maintained by DERS and DEP.

**Mechanism 1:** Any cost-sharing arrangement between DERS and DEP, with the exception of an arrangement otherwise approved by the Board, shall specify the percentage allocation of costs between DERS and DEP, include a description of the justification for the allocation, and will require the prior written approval of one of the:

- (a) Senior Vice President, Western Region, DEML;
- (b) Vice-President, Finance, Western Region, DEML; or
- (c) Vice-President, Regulatory, Western Region, DEML.

A record of the written approval will be maintained by the Vice-President, Finance, Western Region, DEML for a period of no less than six years from the date the written approval is granted.

### (B) NON-DISCLOSURE OF DERS CUSTOMER INFORMATION FOR MARKETING OR SALES PURPOSES (ECCR SECTION 20, GCCR SECTION 20)

**DERS Policy 1:** DERS Customer Information Access Personnel shall protect the confidentiality and security of Customer Information and shall not disclose Customer Information to any Person other than an individual whose name appears on:

- (a) The DERS Customer Information Access Personnel List; or
- (b) The whole or a part of the DERS Agent or Contractor Customer Information Access Personnel List that is provided by the DERS Agent or Contractor to DERS,

**Mechanism 1:** Same as Mechanism 1 under DERS Policy 1 in Section V.(A).

**Mechanism 2:** Same as Mechanism 2 under DERS Policy 1 in Section V.(A).

**Mechanism 3:** Same as Mechanism 3 under DERS Policy 1 in Section V.(A).

**Mechanism 4:** Same as Mechanism 4 under DERS Policy 1 in Section V.(A).

**Mechanism 5:** Same as Mechanism 5 under DERS Policy 1 in Section V.(A).

**Mechanism 6:** Same as Mechanism 6 under DERS Policy 1 in Section V.(A).

**Mechanism 7:** Same as Mechanism 7 under DERS Policy 1 in Section V.(A).



**Mechanism 8:** Same as Mechanism 8 under DERS Policy 1 in Section V.(A).

**Mechanism 9:** Same as Mechanism 9 under DERS Policy 1 in Section V.(A).

**DERS Policy 2:** DEP Sales and Marketing Personnel shall not, under any circumstances, be permitted access to DERS Customer Information or enter any secure work premises occupied by DERS Customer Information Access Personnel.

**Mechanism 1:** Same as Mechanism 1 under DERS Policy 2 in Section V.(A).

**Mechanism 2:** Same as Mechanism 2 under DERS Policy 2 in Section V.(A).

**Mechanism 3:** Same as Mechanism 3 under DERS Policy 2 in Section V.(A).

**Mechanism 4:** Same as Mechanism 4 under DERS Policy 2 in Section V.(A).

**DERS Policy 3:** DERS Agent or Contractor Customer Information Access Personnel shall protect the confidentiality and security of DERS Customer Information and shall not disclose DERS Customer Information to any Person other than an individual whose name appears on the DERS Customer Information Access Personnel List or an individual whose name appears on the DERS Agent or Contractor Customer Information Access Personnel List.

**Mechanism 1:** Same as Mechanism 1 under DERS Policy 3 in Section V.(A).

**Mechanism 2:** Same as Mechanism 2 under DERS Policy 3 in Section V.(A).

**Mechanism 3:** Same as Mechanism 3 under DERS Policy 3 in Section V.(A).

**Mechanism 4:** Same as Mechanism 4 under DERS Policy 3 in Section V.(A).

**Mechanism 5:** Same as Mechanism 5 under DERS Policy 3 in Section V.(A).

**DERS Policy 4:** DEP Sales and Marketing Personnel shall not, under any circumstances, be permitted access to DERS Customer Information or enter any secure work premises occupied by DERS Agent or Contractor Customer Information Access Personnel.

**Mechanism 1:** Same as Mechanism 1 under DERS Policy 4 in Section V.(A).

**Mechanism 2:** Same as Mechanism 2 under DERS Policy 4 in Section V.(A).

**Mechanism 3:** Same as Mechanism 3 under DERS Policy 4 in Section V.(A).

**DERS Policy 5:** DERS Customer Information Access Personnel and DERS Agent or Contractor Customer Information Access Personnel who have direct interaction with DERS Customers shall not access an Electronic Customer Information Repository containing DERS Customer Information at any time during which he/she is providing services to DEP.

**Mechanism 1:** Same as Mechanism 1 under DERS Policy 5 in Section V.(A).



**Mechanism 2:** Same as Mechanism 2 under DERS Policy 5 in Section V.(A).

**Mechanism 3:** Same as Mechanism 3 under DERS Policy 5 in Section V.(A).

**(C) DERS CUSTOMER INFORMATION FROM EMPLOYEES AND OTHERS (ECCR SECTION 21, GCCR SECTION 21)**

**DERS Policy 1:** DERS Personnel and a DERS Agent or Contractor shall report to the Vice-President, Regulatory Affairs, Western Region, DEML, the identity of any DEML employee whose name is not on the DERS Customer Information Access Personnel List, who seeks to obtain DERS Customer Information by indicating that he/she has authority to receive DERS Customer Information from DERS Personnel or DERS Agent or Contractor Personnel when he/she does not in fact have such authority.

**Mechanism 1:** The Vice-President, Regulatory Affairs, Western Region, DEML shall document all such reports received in writing, or any other form, and investigate all reports to determine if any DERS Customer Information was improperly sought or received. These reports shall be included in the quarterly Compliance Plan Committee Report.

**Mechanism 2:** Upon termination of their employment with DEML (voluntary or otherwise) DERS Customer Information Access Personnel shall be informed of their obligation to continue to protect the confidentiality of Customer Information.

**(D) JOINT ACQUISITIONS, RESEARCH, AND DISPOSITIONS (ECCR SECTION 22, GCCR SECTION 22)**

**DERS Policy 1:** The accounting for all joint acquisitions of products and/or services by DERS and DEP shall reflect an appropriate allocation and recording of the economic benefits or costs between DERS and DEP in a manner that is consistent with the benefits or costs attributable to DERS and DEP.

**Mechanism 1:** The Vice-President Finance, Western Region, DEML shall account for all joint acquisitions, research, and disposition in accordance with this DERS policy and shall be responsible for recording, at the time of the transaction, an entry in the records and accounts of DERS and DEP of any joint purchases or acquisitions, the rationale for such joint purchase or acquisition, and the basis for the allocation of the economic benefits or costs between DERS and DEP. These records and accounts will be made available by DERS to the Auditor.

**Mechanism 2:** All joint acquisitions by DERS and DEP, with the exception of a joint acquisition otherwise approved by the Board, shall be reported by the Vice-President Finance, Western Region, DEML to the Compliance Plan Committee at the first quarterly meeting following the joint acquisition.



**(E) GOODS AND SERVICES TRANSACTIONS TO BE AT FAIR MARKET VALUE  
(ECCR SECTION 23, GCCR SECTION 23)**

**DERS Policy 1:** All transactions involving the sale, lease, exchange, transfer or other disposition of goods or services between DERS and DEP shall be at Fair Market Value.

**Mechanism 1:** The Vice-President, Finance, Western Region, DEML shall approve the valuation of all sales, leases, exchanges, transfers or other dispositions of goods or services at Fair Market Value in accordance with this DERS policy and shall be responsible for recording at the time of the transaction in the records and accounts of DERS and DEP all sales, leases, exchanges, transfers or other dispositions of goods or services and the rationale supporting the valuation. These records and accounts will be made available by DERS to the Auditor.

**Mechanism 2:** All transactions involving the sale, lease, exchange, transfer or other disposition of goods or services between DERS and DEP, with the exception of a sale, lease, exchange, transfer or other disposition of goods or services between DERS and DEP otherwise approved by the Board, shall be reported by the Vice-President Finance, Western Region, DEML to the Compliance Plan Committee at the first quarterly meeting following the joint acquisition.

**(F) FINANCIAL TRANSACTIONS (ECCR SECTION 24, GCCR SECTION 24)**

**DERS Policy 1:** DERS shall limit its business operations to the provision of Regulated Services and DERS shall not engage in providing loans, guarantees, security or other financial support to DEP.

**Mechanism 1:** The Vice-President, Finance, Western Region, DEML will ensure that the operations of DEP are not supported in any form through loans, guarantees, security, or other financial transactions provided by DERS to DEP. DEML may support the operations of DEP but this support shall not be through the DERS business unit and therefore shall not be reflected in the records and accounts of DERS.

**(G) ACCESS TO PUBLICLY AVAILABLE INFORMATION (ECCR SECTION 26, GCCR SECTION 25)**

**DERS Policy 1:** If DERS makes any information contained in an Electronic Customer Information Repository available to the public it will do so in such a manner that all Retailers will have notice and access to the information under the same terms and conditions, including the timing of the release of the information.

**Mechanism 1:** At least 24 hours before this information is made available by DERS to the public, DERS will:

- (a) Distribute an email notice to all Retailers listed on the Government of Alberta Customer Choice website containing a clear description of the information and



the cost of obtaining the information, the terms of payment required, and the time frame within which the information will be provided following receipt of payment; and

- (b) Place on the DERS website, a notice containing a clear description of the information and the cost of obtaining the information, the terms of payment required, and the time frame within which the information will be provided following receipt of payment. DERS shall keep the notice on its website for at least 30 days.

**Mechanism 2:** A written record of the notices referred to in Mechanism 1 shall be maintained by the Vice-President, Regulatory Affairs, Western Region, DEML for review by the Auditor.



---

## IX. SEPARATE RECORDS AND ACCOUNTS

---

### (A) RECORDS AND ACCOUNTS (ECCR SECTION 27, GCCR SECTION 26)

**DERS Policy 1:** DERS and DEP shall have separate records and accounts.

**Mechanism 1:** The Vice-President, Finance, Western Region, DEML will ensure the accounts and records of DERS and DEP are kept separate from each other and

- (a) Sufficient records and accounts are maintained to enable an audit to be conducted under Part 4 of the GCCR and Part 4 of the ECCR;
- (b) That the accounts comply with any guidelines or uniform system of record keeping required by the Board and generally accepted accounting principles.

### (B) WRITTEN FINANCIAL TRANSACTIONS (ECCR SECTION 28, GCCR SECTION 27)

**DERS Policy 1:** All financial transactions between DERS and DEP shall be in writing and shall be approved in advance by the Senior Vice-President, Western Region, DEML.

**Mechanism 1:** The Vice-President, Finance, Western Region, DEML will ensure that all financial transactions recorded in the accounts and records of DERS and DEP are supported by written documentation describing and confirming the transaction.

**Mechanism 2:** The written documentation of financial transactions between DERS and DEP will be made available by DERS to the Auditor.

**Mechanism 3:** All financial transactions between DERS and DEP, with the exception of financial transactions approved by the Board, shall be reported by the Vice-President Finance, Western Region, DEML to the Compliance Plan Committee at the first quarterly Compliance Plan Committee meeting following the financial transaction.

### (C) TRANSACTION RECORDS (ECCR SECTION 29, GCCR SECTION 28)

**DERS Policy 1:** DERS shall maintain a written record of all goods and services sold, leased, exchanged, given or otherwise disposed of between DERS and DEP which shall include the value of the transaction expressed in terms of money.

**DERS Policy 2:** Transactions between DERS and DEP that involve goods or services sold, leased, exchanged, given, or otherwise disposed of between DERS and DEP in an amount greater than an annual amount of \$500,000, including transactions approved by the Board, shall be documented by an agreement in writing and the valuation of the transaction shall reflect Fair Market Value.

**Mechanism 1:** The Vice-President Finance, Western Region, DEML will maintain a written record of all goods and services sold, leased, exchanged, given or otherwise



disposed of between DERS and DEP which will include the value of the transaction expressed in terms of money.

**Mechanism 2:** If any transactions between DERS and DEP exceed \$500,000 annually, the Vice-President Finance, Western Region, DEML will obtain written evidence of Fair Market Value from an independent third party that has no financial interest in DERS or DEP and provide this evidence to the Compliance Plan Committee for its review and approval, unless the transaction has been otherwise approved by the Board, prior to the transaction being completed. These records will be made available by DERS to the Auditor.

#### **(D) MAINTAINING RECORDS (ECCR SECTION 30, GCCR SECTION 29)**

**DERS Policy 1:** DERS shall maintain the records, accounts, financial transactions, reports and plans required by the GCCR, the ECCR, and the Compliance Plan for a period of at least six (6) years.

**Mechanism 1:** The Vice-President, Regulatory Affairs, Western Region, DEML and the Vice-President, Finance, Western Region, DEML will jointly be responsible for making the necessary arrangements to maintain and store all records that must be maintained by DERS for the required period.

**Mechanism 2:** The records, accounts, financial transactions, reports and plans of DERS that must be maintained for the required period and which contain DERS Customer Information in the form of electronic or physical records will be accessible physically and/or through a password protected data system only by DERS Customer Information Access Personnel or by DERS Agent or Contractor Customer Information Access Personnel in secure work premises or at an off-site storage facility. The off-site storage facility must have security features that will allow DERS or a DERS Agent or Contractor to restrict access to the off-site storage only to individuals whose names appear on the DERS Customer Information Access Personnel List, DERS Agent or Contractor Customer Information Access Personnel List, and employees of the off-site storage facility





---

## X. COMPLIANCE PLANS AND REPORTS

---

### (A) COMPLIANCE PLAN (ECCR SECTIONS 31 AND 33, GCCR SECTIONS 30 AND 32)

**DERS Policy 1:** All DERS Personnel and DERS Agent or Contractor Personnel shall conduct their activities in a manner that is in compliance with the ECCR, the GCCR, and the Compliance Plan.

**Mechanism 1:** Same as Mechanism 1 under DERS Policy 1 in Section III.(A).

**Mechanism 2:** Same as Mechanism 2 under DERS Policy 1 in Section III.(A).

**Mechanism 3:** Same as Mechanism 3 under DERS Policy 1 in Section III.(A).

**Mechanism 4:** Same as Mechanism 4 under DERS Policy 1 in Section III.(A).

**Mechanism 5:** Same as Mechanism 5 under DERS Policy 1 in Section III.(A).

**Mechanism 6:** Same as Mechanism 6 under DERS Policy 1 in Section III.(A).

**Mechanism 7:** Same as Mechanism 7 under DERS Policy 1 in Section III.(A).

**Mechanism 8:** Same as Mechanism 8 under DERS Policy 1 in Section III.(A).

**DERS Policy 2:** DERS Personnel and DERS Agent or Contractor Personnel who become aware of circumstances that they believe may constitute a contravention of the Compliance Plan, the ECCR, or the GCCR, shall forthwith report this information to their supervisor. The supervisor shall consider the information reported and determine if the report has merit. If the supervisor believes the reported circumstances may constitute a contravention of the Compliance Plan, the ECCR, or the GCCR, shall forthwith report this information to the Vice-President, Regulatory Affairs, Western Region, DEML.

**DERS Policy 3:** All complaints of alleged contraventions of the ECCR or the GCCR received by DERS from the public shall be referred to the Vice-President, Regulatory Affairs, Western Region, DEML who shall acknowledge receipt of the complaint, in writing, within 5 days of DERS receiving the complaint.

**Mechanism 1:** The DERS website will provide information to the public describing how to report an alleged contravention of the ECCR or the GCCR to DERS or the DERS Compliance Authority.

**Mechanism 2:** Reports from the public of matters that may constitute a contravention of the Compliance Plan, the ECCR, or the GCCR, will be addressed by the Vice-President, Regulatory Affairs, Western Region, DEML.



**Mechanism 3:** Upon DERS receiving a complaint, the Vice-President, Regulatory Affairs, Western Region, DEML will forthwith investigate the matter to determine if any contravention of the Compliance Plan, ECCR, or GCCR did occur. Upon completion of the investigation, the Vice-President, Regulatory Affairs, Western Region, DEML will document the circumstances of alleged contravention in the Compliance Plan Contravention Investigation Report. The Vice-President, Regulatory Affairs, Western Region, DEML will endeavour to resolve any complaint of alleged violation of the ECCR, the GCCR, or the Compliance Plan with the member of the public that lodged the complaint within 20 days of DERS receiving the complaint.

**Mechanism 4:** If it is established that a contravention of the ECCR, the GCCR, or the Compliance Plan has occurred, the Vice-President, Regulatory Affairs, Western Region, DEML will prepare a Compliance Plan Contravention Report and immediately provide the Compliance Plan Contravention Report to the Compliance Plan Committee.

**Mechanism 5:** Adherence to the Compliance Plan will be overseen and monitored by the Compliance Plan Committee by way of a quarterly meeting to:

- (a) Receive, review and approve the updated DERS Customer Information Access Personnel List and any updated Electronic Customer Information Repository Descriptions relating to Electronic Customer Information Repositories maintained by DERS;
- (b) Receive, review and approve any reports of any current DEML employee whose name is not on the DERS Customer Information Access List who has sought or received Customer Information from any present or former officer, employee, agent, or contractor of DERS and provide any appropriate directions;
- (c) Receive, review, and approve all Compliance Plan Contravention Investigation Reports prepared since the last quarterly meeting by the Vice-President, Regulatory Affairs, Western Region, DEML and provide any appropriate directions;
- (d) Receive, review, and approve all Compliance Plan Contravention Reports prepared since the last quarterly meeting by the Vice-President, Regulatory Affairs, Western Region, DEML and provide any appropriate directions;
- (e) Receive, review and approve a copy of all DERS consumer awareness and education materials and other DERS communications approved, since the last quarterly meeting of the Compliance Plan Committee, for distribution to the public pursuant to the Compliance Plan and provide any appropriate directions;
- (f) Receive, review and approve a copy of all DERS Call Centre scripting approved, since the last quarterly meeting of the Compliance Plan Committee, pursuant to the Compliance Plan and the written report of the Director, Operations, Western Region, DEML regarding testing undertaken to confirm the DERS Call Centre



provides responses that are consistent with the scripting and provide any appropriate directions;

- (g) Receive, a copy of the DERS Agent or Contractor List maintained by the Vice-President, Regulatory Affairs, Western Region, DEML and provide any appropriate directions;
- (h) Receive, review and approve the written report of the Vice-President Regulatory Affairs, Western Region, describing the outcome of his/her semi-annual review of the DERS Agent or Contractor Customer Information Access Personnel List, the Agents or Contractors included on the DERS Customer Information Access Personnel List, and the sample of written authorizations to include employees on the DERS Agent or Contractor Customer Information Access Personnel List granted by officers of ATCO I-Tek, and provide any appropriate directions;
- (i) Receive, review and approve any reports from the Vice-President Finance, Western Region, DEML regarding joint acquisitions by DERS and DEP made since the last quarterly meeting;
- (j) Receive review and approve any reports from the Vice-President Finance, Western Region, DEML involving the sale, lease, exchange, transfer, or other disposition of goods or services between DERS and DEP made since the last quarterly meeting;
- (k) Receive, review and approve any reports from the Vice-President, Finance, Western Region, DEML describing all financial transactions between DERS and DEP made since the last quarterly meeting;
- (l) Receive, review and approve any reports from the Vice-President, Regulatory Affairs, Western Region, DEML of any action taken by DERS, DERS Personnel or a DERS Agent or Contractor in response to an emergency that threatens public safety, the safety of DERS Personnel or DERS Agent or Contractor Personnel;
- (m) Consider any necessary changes to the Compliance Plan that reflect changed circumstances or improved practices.

The Vice-President, Regulatory Affairs, Western Region, DEML, will maintain minutes of the Compliance Plan Committee meetings, which shall have appended to them copies of the Compliance Plan Investigation Reports and the Compliance Plan Contravention Reports that were received and reviewed by the Compliance Plan Committee.

**Mechanism 6:** The Vice-President, Regulatory Affairs, Western Region, DEML is accountable for the development of the Compliance Plan.

**Mechanism 7:** The Vice-President, Regulatory Affairs, Western Region, DEML and the Chief Privacy Officer report to the Senior Vice-President Regulatory Affairs, Centrica



North America and therefore do not have a direct reporting relationship to the Senior Vice-President, Western Region, DEML.

**Mechanism 8:** The Compliance Plan Committee shall be accountable for:

- (a) Identifying proposed enhancements or improvements to the Compliance Plan and approving changes to the Compliance Plan, where appropriate;
- (b) Providing direction to individual members of the Compliance Plan Committee related to implementing and monitoring the Compliance Plan; and
- (c) Enforcing adherence to and ensuring compliance with the Compliance Plan, the GCCR, and the ECCR by DERS Personnel and by DERS Agents or Contractors.

**Mechanism 9:** The Compliance Plan Committee Report will be provided to the Board of Directors of DEML by the Vice-President, Regulatory Affairs, Western Region, DEML within five days of the Compliance Plan Committee meeting.

**Mechanism 10:** The Compliance Plan Committee shall be responsible for ensuring that the DERS Personnel and DERS Agent or Contractor Personnel are informed that the Auditor has the authority to receive from DERS Personnel and DERS Agents or Contractors, and they shall provide to the Auditor, free and unfettered access to appropriate DERS Personnel or DERS Agent or Contractor Personnel, including the information systems of DERS and the DERS Agent or Contractor to complete the compliance audit requirements of the ECCR, the GCCR, and the Compliance Plan in a timely and efficient manner.

**(B) QUARTERLY AND ANNUAL COMPLIANCE REPORTS (ECCR SECTION 34, GCCR SECTION 33)**

**DERS Policy 1:** The Board of Directors of DEML shall be informed, on no less than a quarterly basis, of any alleged or actual contraventions of the Compliance Plan, the action taken to remedy any non-compliance, and any complaints for non-compliance with the ECCR, GCCR or the Compliance Plan.

**Mechanism 1:** Complaints of non-compliance with the ECCR, GCCR, or the Compliance Plan by DERS or a DERS Agent or Contractor, or if it is determined that DERS did not comply with the ECCR, GCCR or the Compliance Plan, the minutes of the Compliance Plan Committee meetings related to these matters will be provided to the Board of Directors of DEML, and the DERS Compliance Authority by the Vice-President, Regulatory Affairs, Western Region, DEML within five days of the quarterly Compliance Plan Committee meeting being held.

**Mechanism 2:** Within 30 days following the end of each calendar year, DERS will send to the DERS Compliance Authority, an annual compliance report, approved by the Board of Directors of DEML.



**(C) PUBLIC NOTICE OF COMPLAINTS (ECCR SECTION 35, GCCR SECTION 34)**

**DERS Policy 1:** DERS shall give notice to the public that complaints about contraventions of the ECCR or GCCR may be made to the Market Surveillance Administrator and Board, respectively.

**Mechanism 1:** Once per twelve month period commencing no later than 60 days after DERS begins to provide Regulated Services, DERS will include a text message directly on the Customer's bill, giving notice to the Customer that complaints about contraventions of the ECCR or the GCCR may be made to the DERS Compliance Authority and that the DERS Compliance Authority is independent of DERS. This notice shall be approved by the DERS Compliance Authority prior to being placed by DERS.

**(D) NO RELEASE FROM OBLIGATIONS UNDER REGULATION (ECCR SECTION 37, GCCR SECTION 36)**

**DERS Policy 1:** Compliance by DERS with the Compliance Plan does not release DERS, DERS Personnel, DERS Agents or Contractors, or DERS Agent or Contractor Personnel from complying with the ECCR or the GCCR.



---

## XI. COMPLIANCE AUDIT

---

### (A) APPOINTMENT OF AUDITOR (ECCR SECTION 38, GCCR SECTION 37)

**DERS Policy 1:** DERS Personnel and DERS Agent or Contractor Personnel shall be required by DERS to fully co-operate with the Auditor appointed by DERS to perform an audit, composed of an independent examination of DERS operations and the operations of DERS Agents or Contractors for the purpose of expressing an opinion on the compliance by DERS and DERS Agents or Contractors with the ECCR, the GCCR, and the Compliance Plan.

**Mechanism 1:** Employees of the Auditor shall provide reasonable proof to DERS Customer Information Access Personnel or DERS Agent or Contractor Customer Information Access Personnel of their identity prior to requesting access to DERS Customer Information.

**Mechanism 2:** DERS and DERS Agents or Contractors shall afford the Auditor with complete and unfettered access to the records, information, and information systems of DERS and DERS Agents or Contractors and to DERS Personnel and DERS Agent or Contractor Personnel for the purpose of the Auditor completing its Audit.

**Mechanism 3:** DERS and DERS Agents or Contractors will cooperate with the Auditor and the DERS Compliance Authority to accommodate any need for direct interaction between the Auditor and the DERS Compliance Authority that the Auditor or the DERS Compliance Authority may require during the course of the audit to fulfil its obligations under the ECCR or GCCR.



---

## XII. EXCEPTIONS

---

### (A) EMERGENCY EXCEPTIONS (ECCR SECTION 44, GCCR SECTION 42)

**DERS Policy 1:** Any action taken by DERS, DERS Personnel, DERS Agents or Contractors, or DERS Agent or Contractor Personnel in response to an emergency that threatens public safety, the safety of DERS Personnel or DERS Agent or Contractor Personnel, does not contravene the Compliance Plan, the ECCR, or the GCCR.

**Mechanism 1:** Any action taken by DERS, DERS Personnel, DERS Agents or Contractors, or DERS Agent or Contractor Personnel in response to an emergency that threatens public safety, the safety of DERS Personnel or DERS Agent or Contractor Personnel, or any other Person that results in a breach of this Compliance Plan, will be forthwith reported in writing to the Vice-President, Regulatory Affairs, Western Region, DEML who shall report such occurrence to the DERS Compliance Authority within 10 days of the date of the breach and to the Compliance Plan Committee at the next quarterly meeting of the Compliance Plan Committee.

### (B) BILL PAYMENTS AT ATCO DISTRICT OFFICES AND RETAIL OFFICES

**DERS Policy 1:** Notwithstanding the provisions in the DERS Compliance Plan, and in order to ensure a seamless transition of Regulated Services from ATCO Gas and ATCO Electric to DERS, employees of ATCO Gas and ATCO Electric at the six ATCO Gas and ATCO Electric District Offices in Alberta shall be granted limited access to DERS Customer Information consisting only of: DERS Customer name, DERS Customer address, DERS Customer account number, and current balance owing by the DERS Customer. The sole purpose for receiving this limited access to DERS Customer Information is to receive DERS Customer bill payments at these offices. In this circumstance, ATCO Gas and ATCO Electric shall not be considered to be a DERS Agent or Contractor and their District Office employees shall not be considered to be DERS Agent or Contractor Customer Information Access Personnel.

**Mechanism 1:** On or before the date upon which an ATCO Gas or ATCO Electric District Office obtains the limited access to DERS Customer Information, and annually thereafter, the Director, Operations, Western Region, DEML will send a letter to the manager of each ATCO Gas and ATCO Electric District Office advising that the authority of the District Office employees to access DERS Customer Information is limited to the sole and exclusive purpose of assisting DERS Customers with the payment of their DERS bills. The Director, Operations, Western Region, DEML shall maintain a copy of this letter for review by the Auditor.

**DERS Policy 2:** ATCO Gas and ATCO Electric operate small retail offices in various cities and towns within the ATCO Gas and ATCO Electric service territories. These retail offices have historically collected payments from ATCO Gas and ATCO Electric customers and this service will continue to be available to DERS and DERS Customers for a period of up to two years from the date that DERS assumes the role of Default Rate Tariff Provider in the ATCO Gas service territory and Regulated Rate Tariff Provider in the ATCO Electric service territory. During this



period, it is anticipated that some DEP Customers will attend at these retail offices to remit payments of DEP accounts and this shall be acceptable provided the ATCO Electric or ATCO Gas employees simply receive the DEP payment into a DEP “drop-box”.

**Mechanism 1:** ATCO Electric and ATCO Gas shall not be considered to be a DERS Agent or Contractor and their retail office employees who receive DERS bill payments shall not be considered to be DERS Agent or Contractor Customer Information Access Personnel if they do not have electronic access to DERS Customer Information and the only DERS Customer Information they receive is information provided to them by the DERS Customer.

**Mechanism 2:** ATCO Electric and ATCO Gas retail office employees who receive DEP bill payments into the “drop box” shall not respond to any questions from a DEP Customer in relation to his/her DEP account or Retail Services provided by DEP but shall refer the DEP Customer to contact DEP directly by telephone, which shall be made available to the DEP Customer at the ATCO Electric or ATCO Gas retail office, in relation to inquiries regarding his/her DEP account or Retail Services.

**Mechanism 3:** On or before the date upon which an ATCO Gas or ATCO Electric retail offices begin to receive payments from DEP Customers, and annually thereafter, the Director, Operations, Western Region, DEML will send a letter to the manager of each ATCO Gas and ATCO Electric retail office advising of the requirement of this policy and of Mechanism 2. The Director, Operations, Western Region, DEML shall maintain a copy of this letter for review by the Auditor.





## APPENDIX A: COMPLIANCE ACKNOWLEDGEMENT

**Note:** Terms utilized in this Compliance Acknowledgement are defined in the Definitions Section II. of the Direct Energy Regulated Services Compliance Plan.

Direct Energy Regulated Services (“DERS”), a business unit of Direct Energy Marketing Limited (“DEML”), is committed to conducting its affairs in accordance with all applicable laws that govern DERS’ operations. DEML has developed this Compliance Plan as part of that commitment. DEML requires DERS Personnel and DERS Agent or Contractor Personnel to, fully and completely in all circumstances, comply with the policies and mechanisms contained in this Compliance Plan.

The undersigned DERS Personnel or DERS Agent or Contractor Personnel hereby acknowledges that he/she has received and read a copy of this Compliance Plan and understands both the obligations of DERS and his/her personal obligations, as described in this Compliance Plan, and undertakes to conduct himself/herself in a manner that is in accordance with the policies and mechanisms contained in this Compliance Plan.

The undersigned DERS Personnel or DERS Agent or Contractor Personnel hereby acknowledges that he/she will not give preferential treatment to affiliates of DERS or customers of affiliates of DERS and will not conduct his/her activities in a manner that would discriminate against any Retailer or against any customers of any Retailer.

The undersigned DERS Personnel or DERS Agent or Contractor Personnel acknowledge that it is his/her obligation and right to ask questions and seek clarification regarding the contents of this Compliance Plan from his/her supervisor if there is any uncertainty or question respecting his/her understanding of the policies and mechanisms described in this Compliance Plan.

Acknowledged and accepted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name



## APPENDIX B: COMPLIANCE CONFIRMATION

---

**Note: Terms utilized in this Compliance Confirmation are defined in the Definitions Section II. of the Direct Energy Regulated Services Compliance Plan.**

Direct Energy Regulated Services ("DERS"), a business unit of Direct Energy Marketing Limited ("DEML"), is committed to conducting its affairs in accordance with all applicable laws that govern DERS' operations. DEML has developed the DERS Compliance Plan as part of that commitment.

DEML requires DERS Personnel to, fully and completely in all circumstances, comply with the policies and mechanisms contained in the DERS Compliance Plan.

DEML also requires DERS Agent or Contractor Personnel to, fully and completely in all circumstances, comply with the policies and mechanisms contained in the DERS Compliance Plan.

The undersigned DERS Personnel or DERS Agent or Contractor Personnel hereby confirms that he/she has reviewed the terms of this Compliance Plan within the past 30 days and further confirms he/she has complied with the requirements of the DERS Compliance Plan over the past calendar year, or portion thereof during which he/she was a member of the group of DERS Personnel or DERS Agent or Contractor Personnel. If this is not the case, this signatory shall describe all instances of non-compliance, in writing, in the area provided below or provide further documentation that contains a detailed description of any non-compliance.

Written description of any non-compliance (attach additional pages if necessary):

Confirmed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

---

Signature

---

Print Name



Edmonton Office 10th Fl. 10055 - 106 St. Edmonton Alberta Canada T5J 2Y2 Tel 780 427-4901 Fax 780 427-6970

VIA E-MAIL

File Nos.: 2010-02 & 2010-03

December 3, 2003

**Attention: Brian J. Meronek, Q.C.**

D'Arcy & Deacon  
Barristers & Solicitors  
12<sup>th</sup> Floor, 330 St. Mary Avenue  
Winnipeg, MB R3C 4E1

Dear Sir:

**RE: DIRECT ENERGY REGULATED SERVICES (DERS) &  
DIRECT ENERGY PARTNERSHIP (DEP)  
APPLICATIONS FOR APPROVAL OF COMPLIANCE PLANS UNDER THE  
GAS UTILITIES ACT CODE OF CONDUCT REGULATION  
APPLICATION NOS. 1318247 & 1319537**

I have for reply your letter to Mr. Mike Hagan dated November 14, 2003.

The Board acknowledges the position of the City of Calgary that the consideration of these Applications should be conducted in a public forum. Ordinarily, the Board considers that its public interest mandate obliges it to subject applications to some degree of public scrutiny, whether that be through a written or oral proceeding. The nature of an application, and the rights and interests potentially affected by the exercise of the Board's powers, may result in the Board exercising its discretion to consider the application without seeking public input prior to making a decision regarding the application. The circumstances in which the Board might choose to exercise this procedural discretion are varied, as reflected in Section 58 of the *Public Utilities Board Act*, which authorizes the Board to decide matters without notice in cases of urgency or on any other grounds that the Board considers sufficient.

The Board has carefully considered the nature of the present Applications and the terms of the *Gas Code of Conduct* to determine whether a public process would better serve the public interest. In particular, the Board has given primary regard to Section 35 of the *Gas Code of Conduct*, which confers the following discretion on the Board:

**35** The Board may make available to the public some or all of the contents of a compliance plan of a gas distributor, default supply provider or affiliated retailer or the annual compliance report of a gas distributor, default supply provider or affiliated retailer.

In the Board's view, Section 35 provides the Board with the discretion to publish some, all or, indeed, no part of a compliance plan. In the Board's further view, this discretion is inconsistent

with an obligation to conduct a public process and requires the Board to approach rather differently the question of the appropriate process to be applied to an application for approval of a compliance plan, such as those presently before the Board. Accordingly, the Board is of the view that it is fair and reasonable to consider these Applications according to a different model.

The Board intends to use an interactive, iterative process whereby drafts of the proposed compliance plans are submitted for analysis by Board staff and comments arising from the analysis are provided to the applicants. These iterations will continue until the Board is satisfied that the plans fully meet the requirements of the *Gas Code of Conduct*, at which time they will be approved by the Board.

The Board notes that the Market Surveillance Administrator (MSA) is following a similar process for the compliance plans submitted to the MSA for approval under the essentially similar provisions of the *Code of Conduct Regulation* under the *Electric Utilities Act*.

It is the Board's present intention, subject to ongoing consideration, to require the approved plans to be made public. The plans may be published either on the Board's website or the applicants' websites, or both. The Board will consider directing the applicants to include instructions on how to comment on the approved plans and how those comments will be taken into account.

The Board does not consider that following this model will exclude the public from providing input to the compliance plans. Instead, the nature and timing of public involvement will be different from that experienced in other types of applications considered by the Board. The Board considers that interested parties will have an adequate opportunity to review the plans once they are approved and to provide comment on them while they are in operation.

The Board is confident that the expertise it brings to bear on these plans will ensure that they are effective. In addition, there will be an independent audit process following the first full year of operation of the compliance plans. Audits will continue on an annual basis thereafter. Board staff will be intimately involved with this audit process, including approval of the independent auditor and the audit work plan. This period of operation and independent audit will, in the Board's view, provide all interested parties with the opportunity to assess the effectiveness of the plans and to recommend any necessary changes. The Board intends fully to take into account public comment on the plans once they are approved and in operation.

If you have any questions regarding this matter, please contact the writer by e-mail ([allan.domes@gov.ab.ca](mailto:allan.domes@gov.ab.ca)) or by telephone at (403) 297-4110.

Yours truly,

*(sent by email)*

Allan Domes  
Counsel, Law Branch

c. Distribution list