



**Direct Energy Regulated Services: A Business Unit of Direct  
Energy Marketing Limited**

**Inter-Affiliate Code of Conduct**

**April 1, 2016**

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**DIRECT ENERGY REGULATED SERVICES**  
**INTER-AFFILIATE CODE OF CONDUCT**

In Decision 2957-D01-2015, the Commission recognized the interrelationships among Direct Energy Limited Partnership, Direct Energy Marketing Limited and Direct Energy Regulated Services (DERS), a business unit of Direct Energy Marketing Limited, and the fact that Direct Energy Marketing Limited's business units provide both regulated and unregulated services, and directed DERS to develop and file an inter-affiliate code of conduct (IACC) to ensure that interactions between regulated and unregulated affiliated companies are conducted in a manner consistent with the principles set out in Commission Decisions 2002-069 and 2003-040 which dealt with the ATCO Group of companies. Based on the Commission's direction, DERS has used the IACC developed in these decisions as the foundation for its Code.

**1. PURPOSE AND OBJECTIVES OF THE CODE**

**1.1. Purpose of the Code**

The purpose of this Code is to establish standards and conditions for interaction between DERS and its Non-Utility Affiliates. This Code attempts to anticipate and adjust for the potential misalignment of interest between shareholders and Utility customers occasioned by Affiliate interactions through the establishment of parameters for transactions, information sharing and the sharing of services and resources, while permitting economies of scale and operating efficiencies.

These parameters are intended to:

- a) prevent Utilities from cross-subsidizing Affiliate activities;
- b) protect confidential customer information collected in the course of providing Utility services;
- c) ensure Affiliates and their customers do not have preferential access to Utility services; and
- d) avoid uncompetitive practices between Utilities and their Affiliates, which may be detrimental to the interests of Utility customers.

**1.2. Objectives of the Code**

While the overall purpose of the Code is to establish standards and parameters which prohibit inappropriate Affiliate conduct, preferences or advantages, which may adversely impact the customers of regulated businesses, this purpose reflects several important underlying objectives, including:

- a) creating a clearly defined set of rules designed to enhance inter-affiliate transparency, fairness and senior management accountability with respect to inter-affiliate interactions impacting regulated businesses;
- b) providing an environment in which inter-affiliate economies and efficiencies can legitimately occur for the mutual advantage of both a Utility's customers and its shareholders;

- c) developing support and respect for the Code by the employees, officers and directors of the DERS group of companies, which will in turn promote ratepayer confidence in the application of the Code; and
- d) the creation of regulatory processes and cost efficiencies through the consistent application of a clear set of standards and reporting requirements to Utility inter-affiliate transactions, enhanced by a practical, resolution driven, dispute process.

### **1.3. Application**

This Code is not meant to replace or modify in any manner, any statutory or regulatory requirements relating to Utilities.

### **Respect for the Code**

Standards and rules alone, however, will always be insufficient to achieve the objectives of this Code. These objectives can only be fully realized through a demonstrated respect for the spirit and intent behind the words by those individuals to whom the Code applies.

## **2. GENERAL PROVISIONS**

### **2.1. Definitions**

In this Code, the following words and phrases have the following meanings:

- a) “**ABCA**” means the *Business Corporations Act*, RSA 2000, c B-9.
- b) “**Affiliate**” means with respect to any Utility:
  - i. an “affiliate” as defined in the ABCA;
  - ii. a unit or division within the Utility or any Body Corporate referred to in clause (b)(i) above;
  - iii. a partnership, joint venture, or Person in which the Utility or any Body Corporate referred to in clause (b)(i) above has a controlling interest or that is otherwise subject to the control of the Utility or such Body Corporate;
  - iv. any partnership, joint venture, or Person deemed by the AUC to be an affiliate of the Utility for the purposes of this Code; and
  - v. an agent or other Person acting on behalf of any Body Corporate, operating division, partnership, joint venture or Person referred to in clauses (b)(i) to (iv) above.
- c) “**Affiliated Party Transactions Summary**” unless otherwise directed by the AUC, means in respect of any period of time, a summary overview of each type of business transaction or service, other than Major Transactions or Utility Services, performed by an Affiliate for the Utility or by the Utility for an Affiliate, which summary shall contain a general description of the

transactions and services, the parties involved and the approximate aggregate value of each type of transaction or service during the said period.

- d) “**Body Corporate**” means a “body corporate” as defined in the ABCA.
- e) “**Code**” means this DERS Inter-Affiliate Code of Conduct.
- f) “**Commission**” or “**AUC**” means the Alberta Utilities Commission.
- g) “**Compliance Officer**” shall have the meaning ascribed thereto in section 7.3 hereof.
- h) “**Compliance Plan**” shall mean the document to be prepared and updated by the Utility pursuant to section 7.5 hereof.
- i) “**Compliance Report**” shall have the meaning ascribed thereto in section 7.6 hereof.
- j) “**Confidential Information**” means any information relating to a specific customer or potential customer of the Utility, which information the Utility has obtained or compiled in the process of providing current or prospective Utility Services and which is not otherwise available to the public.
- k) “**Cost Recovery Basis**” with respect to:
  - i. the use by one Affiliate of another Affiliate’s personnel, means the fully burdened costs of such personnel for the time period they are used by the Affiliate, including salary, benefits, vacation, materials, disbursements and all applicable overheads;
  - ii. the use by one Affiliate of another Affiliate’s equipment, means an allocated share of capital and operating costs appropriate for the time period utilized by the Affiliate;
  - iii. the use by the Utility of an Affiliate’s services, means the complete costs of providing the service, determined in a manner acceptable to the Utility, acting prudently;
  - iv. the use by an Affiliate of the Utility’s services, means the complete costs of providing the service, determined in a manner acceptable to the Utility, acting prudently; and
- l) “**DERS**” means Direct Energy Regulated Services, a business unit of Direct Energy Marketing Limited.
- m) “**DERS Affiliates**” means any entity to which the Code applies pursuant to section 2.3 hereof.
- n) “**Fair Market Value**” means the price reached in an open and unrestricted market between informed and prudent parties, acting at arms length and under no compulsion to act.
- o) “**For Profit Affiliate Service**” means any service, provided on a for-profit basis:
  - i. by the Utility to a Non-Utility Affiliate, other than a Utility Service; or
  - ii. by a Non-Utility Affiliate to the Utility.

- p) “**Information Services**” means any computer systems, computer services, databases, electronic storage services or electronic communication media utilized by the Utility relating to Utility customers or Utility operations.
- q) “**Major Transaction**” means a transaction or series of related transactions within a calendar year between the Utility and an Affiliate relating to the sale or purchase of an asset(s) or to the provision of a service or a similar group of services, other than Utility Services, which has an aggregate value within that calendar year of \$500,000 or more.
- r) “**Non-Utility Affiliate**” means an Affiliate that is not a Utility.
- s) “**Occasional Services**” shall have the meaning ascribed thereto in section 3.3.6 hereof.
- t) “**Person**” means a “**person**” as defined in the ABCA.
- u) “**Services Agreement**” means an agreement entered into between the Utility and one or more Affiliates for the provision of Shared Services or For Profit Affiliate Services and shall provide for the following matters as appropriate in the circumstances:
- i. the type, quantity and quality of service;
  - ii. pricing, allocation or cost recovery provisions;
  - iii. confidentiality arrangements;
  - iv. the apportionment of risk;
  - v. dispute resolution provisions; and
  - vi. a representation by the Utility and each Affiliate party to the agreement that the agreement complies with the Code.
- v) “**Shared Service**” means any service, other than a Utility Service or a For Profit Affiliate Service, provided on a Cost Recovery Basis by the Utility to an Affiliate or by an Affiliate to the Utility.
- w) “**Subsidiary**” shall have the meaning ascribed thereto in section 2(4) of the ABCA.
- x) “**Utility**” means any Body Corporate or any unit or division thereof, that provides a Utility Service and falls within the definition of:
- i. “electric utility” under the *Electric Utilities Act*, SA 2003, c E-5.1,
  - ii. “gas utility” under the *Gas Utilities Act*, RSA 2000, c G-5;
  - iii. “public utility” under the *Public Utilities Act*, RSA 2000. c P-45;
  - iv. “regulated rate provider” under the *Electric Utilities Act*, SA 2003, c E-5.1; or

- v. “default supply provider” under the *Gas Utilities Act*, RSA 2000, c G-5.
- y) “**Utility Service**” means a service, the terms and conditions of which are regulated by the AUC, and includes services for which an individual rate, joint rate, toll, fare, charge or schedule of them, have been approved by the AUC.

## **2.2. Interpretation**

Headings are for convenience only and shall not affect the interpretation of this Code. Words importing the singular include the plural and vice versa. A reference to a statute, document or a provision of a document includes an amendment or supplement to, or a replacement of, that statute, document or that provision of that document.

## **2.3. To Whom This Code Applies**

DERS is obligated to comply with this Code and all Affiliates of DERS are obligated to comply with the Code to the extent they interact with the Utility.

## **2.4. Coming into Force**

This Code comes into force when approved by the Commission, provided however that, to the extent existing agreements or arrangements are in place between parties to whom this Code applies that do not conform with this Code, such agreements or arrangements must be brought into compliance with this Code within 90 days following approval by the Commission.

## **2.5. Amendments to this Code**

This Code may be reviewed and amended from time to time by the AUC on its own initiative, or pursuant to a request by any party to whom this Code applies or by any interested party.

## **2.6. Exemptions**

A party to whom this Code applies may apply to the AUC for an exemption with respect to compliance with any provision of this Code. Any such application will specify if the requested exemption is in respect of a particular transaction, series of transactions, for a specified period of time, or is for a general exemption from a particular provision.

## **2.7. Authority of the AUC**

Although this Code has been approved by the AUC, such approval does not detract from, reduce or modify in any way, the powers of the AUC to deny, vary, approve with conditions, or overturn, the terms of any transaction or arrangement between the Utility and one or more Affiliates that may be done in compliance with this Code. Compliance with the Code does not eliminate the requirement for specific AUC approvals or filings where required by statute or by AUC decisions, orders or directions.

### **3. GOVERNANCE AND SEPARATION OF UTILITY BUSINESSES**

#### **3.1. Governance**

##### ***3.1.1. Separate Operations***

The business and affairs of the Utility should be managed and conducted separately from the business and affairs of its Non-Utility Affiliates, except as required to fulfill corporate governance, policy, and strategic direction responsibilities of a corporate group of businesses as a whole.

##### ***3.1.2. Common Directors***

The Utility may have common directors with its Affiliates.

##### ***3.1.3. Separate Management***

Subject to section 3.1.4 hereof, the Utility must have a separate management team and separate officers from its Non-Utility Affiliates.

##### ***3.1.4. Separate Management Exception***

Officers of the Utility may also be officers of any Affiliate of which the Utility is a Subsidiary or of any Affiliate that is a Subsidiary of the Utility, as may be required to perform corporate governance, policy and strategic direction responsibilities of an affiliated group of businesses.

##### ***3.1.5. Guiding Principle***

Notwithstanding sections 3.1.2, 3.1.3 and 3.1.4 hereof, an individual shall not act both as a director, officer or member of a management team of the Utility and as a director, officer or member of a management team of any other Affiliate (thereby acting in a dual capacity) unless the individual is able to carry out his/her responsibilities in a manner that preserves the form, and the spirit and intent, of this Code. In particular, an individual:

- a) shall not agree to act in a dual capacity if it could reasonably be considered to be detrimental to the interests of customers of the Utility; and
- b) if acting in a dual capacity, shall abstain from engaging in any activity that could reasonably be considered to be detrimental to the interests of customers of the Utility.

#### **3.2. Degree of Separation**

##### ***3.2.1. Accounting Separation***

The Utility shall ensure accounting separation from all Affiliates and shall maintain separate financial records and books of accounts.

### **3.2.2. *Physical Separation***

The Utility shall be located in a separate building or shall otherwise be physically separated from all Non-Utility Affiliates through the use of appropriate security-controlled access.

### **3.2.3. *Separation of Information Services***

Where the Utility shares Information Services with an Affiliate, all Confidential Information must be protected from unauthorized access by the Affiliate. Access to the Utility's Information Services shall include appropriate computer data management and data access protocols as well as contractual provisions regarding the breach of any access protocols. Compliance with the access protocols shall be periodically confirmed by the Utility, through a review that complies with the provisions of the Canadian Institute of Chartered Accountants Handbook and updates thereto.

### **3.2.4. *Financial Transactions with Affiliates***

The Utility shall ensure that any loan, investment, or other financial support provided to a Non-Utility Affiliate is provided on terms no more favorable than what that Non-Utility Affiliate would be able to obtain as a stand-alone entity from the capital markets.

## **3.3. Resource Sharing**

### **3.3.1. *Sharing of Employees***

The Utility may share employees on a Cost Recovery Basis with an Affiliate provided that the employees to be shared:

- a) do not have access to Confidential Information;
- b) do not routinely participate in making decisions with respect to the provision of Utility Services or how Utility Services are delivered;
- c) do not routinely deal with or have direct contact with customers of the Utility; and
- d) are not, subject to the provisions of section 3.1.4 hereof, routinely involved in operating, planning or managing the business of the Utility.

### **3.3.2. *Transferring of Employees***

The Utility may transfer employees to or from an Affiliate, provided any employee transferred by the Utility who had access to Confidential Information shall execute a confidentiality agreement with respect to such Confidential Information prior to the transfer.

### **3.3.3. *Sharing of Assets***

The plant, assets and equipment of the Utility shall be separated in ownership and separated physically from the plant, assets and equipment of other Non-Utility Affiliates.

### **3.3.4. *Shared Services Permitted***

Where the Utility determines it is prudent in operating its Utility business to do so, it may obtain Shared Services from, or provide Shared Services to, an Affiliate. The Utility shall periodically review the prudence of continuing Shared Services arrangements with a view to making any necessary adjustments to ensure that the Utility and its Affiliates each bear their proportionate share of costs.

### **3.3.5. *Services Agreement***

The Utility shall enter into a Services Agreement with respect to any Shared Services it provides to, or acquires from, an Affiliate.

### **3.3.6. *Occasional Services Permitted***

Where the Utility has otherwise acted prudently, the Utility may receive, or provide, one-off, infrequent or occasional services (“Occasional Services”) to, or from, an Affiliate on a Cost Recovery Basis, documented by way of work order, purchase order or similar instrument. In the event that occasional services become material as to value, frequency or use of resources, the Utility shall enter into a Services Agreement with the Affiliate for Shared Services.

### **3.3.7. *Emergency Services Permitted***

In the event of an emergency, the Utility may share services and resources with an Affiliate without a Services Agreement on a Cost Recovery Basis.

## **4. TRANSFER PRICING**

### **4.1. For Profit Affiliate Services**

Where the Utility determines it is prudent in operating its Utility business to do so, it may obtain For Profit Affiliate Services from an Affiliate or provide For Profit Affiliate Services to an Affiliate.

If the Utility intends to outsource to an Affiliate a service it presently provides for itself, the Utility shall, in addition to any other analysis it may require to demonstrate the prudence of a For Profit Affiliate Services arrangement, undertake a net present value analysis appropriate to the life cycle or operating cycle of the services involved.

The Utility shall periodically review the prudence of continuing For Profit Affiliate Services arrangements.

### **4.2. Pricing for Profit Affiliate Services**

#### **4.2.1. *Utility Acquires For Profit Affiliate Service***

When the Utility acquires For Profit Affiliate Services it shall pay no more than the Fair Market Value of such services. The onus is on the Utility to demonstrate that the For Profit Affiliate Services have been acquired at a price that is no more than the Fair Market Value of such services.

#### **4.2.2. *Utility Provides For Profit Affiliate Service***

When the Utility provides For Profit Affiliate Services, it shall not charge less than the Fair Market Value of such services. The onus is on the Utility to demonstrate that the For Profit Affiliate Services have been charged at a price that is not less than the Fair Market Value of such services.

#### **4.3. Services Agreement**

The Utility shall enter into a Services Agreement with respect to any For Profit Affiliate Services it acquires or provides.

#### **4.4. Asset Transfers**

Subject to section 4.6 hereof, assets transferred, mortgaged, leased or otherwise disposed of by the Utility to an Affiliate or by an Affiliate to the Utility shall be at Fair Market Value.

#### **4.5. Determination of Fair Market Value**

In demonstrating that Fair Market Value was paid or received pursuant to a For Profit Affiliate Service arrangement or a transaction contemplated by sections 4.1, 4.2 and 4.4 hereof, the Utility, subject to any prior or contrary direction by the AUC, may utilize any method to determine Fair Market Value that it believes appropriate in the circumstances. These methods may include, without limitation: competitive tendering, competitive quotes, bench-marking studies, catalogue pricing, replacement cost comparisons or recent market transactions. The Utility shall bear the onus of demonstrating that the methodology or methodologies utilized in determining the Fair Market Value of the subject goods or services was appropriate in the circumstances.

#### **4.6. Asset Transfers Between Utilities for Operational Efficiencies**

This section is not applicable to DERS.

### **5. EQUAL TREATMENT WITH RESPECT TO UTILITY SERVICES**

#### **5.1. Impartial Application of Tariff**

The Utility shall apply and enforce all tariff provisions relating to Utility Services impartially, in the same timeframe, and without preference in relation to its Affiliates and all other customers or prospective customers.

#### **5.2. Equal Access**

The Utility shall not favor any Affiliate with respect to access to information concerning Utility Services or with respect to the obtaining of, or the scheduling of, Utility Services. Requests by an Affiliate or an Affiliate's customers for access to Utility Services shall be processed and provided in the same manner as would be processed or provided for other customers or prospective customers of the Utility.

### **5.3. No Undue Influence**

The Utility shall not condition or otherwise tie the receipt of Utility Services to a requirement that a customer must also deal with an Affiliate. The Utility shall ensure that its employees do not, explicitly or by implication, suggest that an advantage will accrue to a customer in dealing with the Utility if the customer also deals with an Affiliate of the Utility.

### **5.4. Affiliate Activities**

The Utility shall take reasonable steps to ensure that an Affiliate does not imply in its marketing material or otherwise, favored treatment or preferential access to Utility Services. If the Utility becomes aware of any such inappropriate activity by an Affiliate, it shall:

- a) immediately take reasonable steps to notify affected customers of the violation;
- b) take necessary steps to ensure the Affiliate is aware of the concern; and
- c) inform the AUC in writing of such activity and the remedial measures that were undertaken by the Utility.

### **5.5. Name and Logo**

The Utility shall take reasonable steps to ensure that an Affiliate does not use the Utility's name, logo or other distinguishing characteristics in a manner which would mislead consumers as to the distinction or a lack of distinction between the Utility and the Affiliate.

### **5.6. Access to Shared and Occasional Services**

The Utility is not required to provide non-Affiliated parties with equal access to Shared Services or Occasional Services.

## **6. CONFIDENTIALITY OF INFORMATION**

### **6.1. Utility Information**

Subject to section 6.2 hereof, the Utility shall not provide Non-Utility Affiliates with information relating to the planning, operations, finances or strategy of the Utility before such information is publicly available.

### **6.2. Management Exception**

Officers of the Utility who are also officers of an Affiliate as permitted pursuant to section 3.1.4 hereof may disclose, subject to the provisions of section 3.1.5 hereof, Utility planning, operational, financial and strategic information to the Affiliate to fulfill their responsibilities with respect to corporate governance, policy and strategic direction of an affiliate group of businesses, but only to the extent necessary and not for any other purpose.

### **6.3. No Release of Confidential Information**

Subject to section 10 of the *Code of Conduct Regulation*, the Utility shall not release to an Affiliate Confidential Information relating to a customer or prospective customer, unless specifically allowed under subsection 10(3) of the *Code of Conduct Regulation*.

### **6.4. Aggregated Confidential Information**

The Utility may disclose Confidential Information when aggregated with the Confidential Information of other customers in such a manner that an individual customer's Confidential Information cannot be identified, provided that the Utility shall not disclose such aggregated customer information to an Affiliate prior to making such information publicly available.

## **7. COMPLIANCE MEASURES**

### **7.1. Responsibility for Compliance**

The Utility shall be responsible for ensuring compliance with this Code.

### **7.2. Communication of Code**

The Utility shall:

- a) communicate the contents of the Code, and any modifications to it from time to time, to each of its directors, officers, employees, consultants, contractors, agents and Affiliates; and
- b) make the Code available on the Utility's web site.

### **7.3. Compliance Officer**

The Utility shall appoint a compliance officer (the "Compliance Officer"). The Utility shall ensure that the Compliance Officer is an officer of the Utility and has adequate resources to fulfill his or her responsibilities.

### **7.4. Responsibilities of the Compliance Officer**

The responsibilities of the Compliance Officer shall include:

- a) providing advice and information to the Utility for the purpose of ensuring compliance with this Code;
- b) monitoring and documenting compliance with the Code by the Utility, its directors, officers, employees, consultants, contractors and agents;
- c) monitoring and documenting compliance with the Code by Affiliates of the Utility with respect to the interactions of the Affiliates with the Utility;
- d) providing for the preparation and updating, of a Compliance Plan for the Utility pursuant to Section 7.5 hereof;

- e) filing the Compliance Plan and any modifications or replacements with the AUC, posting the Compliance Plan on the Utility’s website, and advising interested parties promptly when the Compliance Plan, or any modifications or replacements, have been posted on the website;
- f) performing an annual review of compliance with the Compliance Plan and preparing an annual compliance report (“Compliance Report”) containing the information required in section 7.6 hereof. The Compliance Officer shall file the Compliance Report with the AUC within 120 days of the fiscal year end of the Utility with respect to the immediately preceding fiscal year, post the Compliance Report on the Utility’s website, and advise interested parties promptly when the Compliance Report has been posted on the website;
- g) receiving and investigating internal and external disputes, complaints and inquiries with respect to the application of, and alleged non-compliance, with the Code in accordance with Section 8 hereof;
- h) recommending to the Utility measures required to address events of non-compliance with the Code; and
- i) maintaining adequate records with respect to all aspects of the Compliance Officer’s responsibility.

**7.5. The Compliance Plan**

The Utility shall prepare a Compliance Plan. The Compliance Plan shall detail the measures, policies, procedures and monitoring mechanisms that the Utility will employ to ensure its full compliance with the provisions of the Code by the Utility its directors, officers, employees, consultants, contractors and agents, and by Affiliates of the Utility with respect to the interactions of the Affiliates with the Utility. The Utility shall review and update the Compliance Plan at least annually.

**7.6. The Compliance Report**

The Compliance Report shall include the following information prepared in respect to the period of time covered by the Compliance Report:

- a) a copy of the Compliance Plan and any amendments thereto;
- b) a corporate organization chart for the Utility and its Affiliates indicating relationships and ownership percentages;
- c) a list of all Affiliates with whom the Utility transacted business, including business addresses, a list of the Affiliates’ officers and directors, and a description of the Affiliates’ business activities;
- d) a list of all Services Agreements in effect at any time during such period;
- e) an overall assessment of compliance with the Code by the Utility, including compliance by the directors, officers, employees, consultants, contractors and agents of the Utility and by Affiliates of the Utility with respect to the interactions of the Affiliates with the Utility;

- f) an assessment of the effectiveness of the Compliance Plan and any recommendations for modifications thereto;
- g) in the event of any material non-compliance with the Code, a comprehensive description thereof and an explanation of all steps taken to correct such non-compliance;
- h) subject to the confidentiality provisions of section 8.1 hereof, a summary of disputes, complaints and inquiry activity during the year;
- i) a list and detailed description of all Major Transactions between the Utility and its Affiliates;
- j) an Affiliated Party Transactions Summary;
- k) a summary description together with an estimated aggregate value for each Occasional Service provided by the Utility to an Affiliate and by Affiliates to the Utility;
- l) a summary list of any exemptions granted to this Code or exceptions utilized, including the exception for emergency services;
- m) a list of all employee transfers, temporary assignments and secondments between the Utility and its Affiliates, detailing specifics as to purpose, dates and duration of such employee movements; and
- n) two certificates, each in the form attached as Schedule “A” attached to this Code, attesting to completeness of the Compliance Report and compliance with the Code, one certificate signed by the Compliance Officer and a second certificate signed by the highest ranking operating officer of the Utility.

**7.7. Documents to be Provided to the AUC upon Request**

If required by the AUC, the Utility shall provide the AUC with a copy of any document referred to in a Compliance Report or other supporting records and material.

**7.8. Compliance Records and Audit**

The records required to be maintained by the Compliance Officer pursuant to section 7.4(i) hereof shall be retained for a period of at least six years. Compliance records shall be maintained in a manner sufficient to support a third party audit of the state of compliance with the Code by the Utility, its directors, officers, employees, consultants, contractors and agents, and by Affiliates of the Utility with respect to the interactions of the Affiliates with the Utility. Subject to the confidentiality provisions of section 8.1 hereof, all such records shall be made available for inspection or audit as may be required by the AUC from time to time.

## **8. DISPUTES, COMPLAINTS AND INQUIRIES**

### **8.1. Filing with the Compliance Officer**

Disputes, complaints or inquiries from within the Utility or from external parties respecting the application of, or alleged non-compliance with, the Code shall be submitted in writing to the Compliance Officer and may be made confidentially. The identity of the party making the submission to the Compliance Officer shall be kept confidential by the Compliance Officer unless the party otherwise agrees.

### **8.2. Processing by Utility**

#### **8.2.1. *Compliance Officer Acknowledgment***

The Compliance Officer shall acknowledge all disputes, complaints or inquiries in writing within five working days of receipt.

#### **8.2.2. *Disposition***

The Compliance Officer shall respond to the dispute, complaint or inquiry within 21 working days of its receipt. The response shall include a description of the dispute, complaint or inquiry and the initial response of the Utility to the issues identified in the submission. The Utility's final disposition of the dispute, complaint or inquiry shall be completed as expeditiously as possible in the circumstances, and in any event within 60 days of receipt of the dispute, complaint or inquiry, except where the party making the submission otherwise agrees.

### **8.3. Referral to the AUC**

In the event:

- a) the Utility fails to abide by the process identified in section 8.2 hereof,
- b) the Utility or a party is unsatisfied with the resolution of a dispute, complaint or inquiry following the conclusion of the section 8.2 process, or
- c) of an urgent and significant matter, where there is a reasonable expectation that a party's position may be prejudiced by allowing the process contemplated by section 8.2 to operate,

the Utility (subject to the confidentiality provisions of section 8.1 hereof) or a party with a dispute, complaint or inquiry may refer the matter to the AUC for consideration. A referral to the AUC must be in writing and shall describe the dispute, complaint, or inquiry and must include the response, if any, of the Utility to the submission.

## **9. NON-COMPLIANCE WITH THE CODE**

### **9.1. Non-Compliance**

Any non-compliance with the Code by any director, officer, employee, consultant, contractor or agent of the Utility or by an Affiliate (or any director, officer, employee, consultant, contractor or agent of an Affiliate) with respect to the interactions of the Affiliate with the Utility will be considered to be non-compliance by the Utility.

### **9.2. Consequences for Non-Compliance with Code**

Non-compliance with this Code could be considered as prima facie evidence in a regulatory proceeding of inappropriate conduct by the Utility or of an inappropriate transaction, expense or activity by the Utility. Non-compliance with the Code by the Utility shall subject the Utility to the full range of powers and authorities of the AUC. Non-compliance with the Code by a director, officer, employee, consultant, contractor or agent of the Utility may subject such individual to disciplinary action by the Utility.

**SCHEDULE A – OFFICERS CERTIFICATE**

**OFFICER’S CERTIFICATE**

To: The Alberta Utilities Commission

I, \_\_\_\_\_ of the City of \_\_\_\_\_, in the Province of Alberta, acting in my position as an officer of \_\_\_\_\_ (the Utility) and not in my personal capacity, to the best of my knowledge do hereby certify as follows:

1. My position with the Utility is \_\_\_\_\_, and as such I have personal knowledge of, or have conducted due inquiry of individuals who have personal knowledge of, the facts and matters herein stated.
2. Capitalized terms used herein (which are not otherwise defined herein) shall have the meanings ascribed thereto in the Direct Energy Regulated Services Inter-Affiliate Code of Conduct (the Code).
3. I have read the Code, the Compliance Plan of the Utility dated \_\_\_\_\_ and the Compliance Report of the Utility dated \_\_\_\_\_.
4. The form and contents of the Compliance Report comply with the requirements of the Code and the matters reported therein are fully and accurately described.
5. I am not aware of any material non-compliance with the provisions of the Code by any director, officer, employee, consultant, contractor or agent of the Utility, or by any Affiliate of the Utility (including any director, officer, employee, consultant, contractor or agent of the Affiliate) with respect to the any interaction between an Affiliate and the Utility that is not fully and accurately described in the Compliance Report.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_