



ENMAX Energy Corporation

2006-2011 Regulated Rate Option
Energy Price Setting Plan
Monthly Filings for Acknowledgement
2009 Quarter 3

Cost Awards



ALBERTA UTILITIES COMMISSION

Utility Cost Order 2010-013: ENMAX Energy Corporation

2006-2011 Regulated Rate Option

Energy Price Setting Plan

Monthly Filings for Acknowledgement

2009 Quarter 3

Application No. 1455236

Cost Application No. 1474143

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1 INTRODUCTION

1. By letter dated April 21, 2006, ENMAX Energy Corporation (EEC) requested approval of a Negotiated Settlement (Settlement). The Settlement was in regard to an Energy Price Setting Plan (EPSP) for the period July 1, 2006 to June 30, 2011, applicable to Regulated Rate Option (RRO) customers in the service area of EEC. In Order [U2005-448](#), dated December 16, 2005, the Alberta Energy and Utilities Board (Board or EUB) granted approval for EEC to commence a Negotiated Settlement Process respecting the EPSP in compliance with the *Regulated Rate Option Regulation*, AR 262/2005 and on April 28, 2006, by way of Order [U2006-110](#), the Board approved the Settlement.

2. Section 12 (b) of the Terms of Settlement provides the following:

No later than 5 Business Days prior to the start of each calendar month, EEC will file with the EUB the rate for that calendar month and the calculation of that rate, in accordance with the Energy Rate Calculation set out in Appendix 2 of the EPSP.

3. Effective January 1, 2008, the Settlement became subject to the jurisdiction of the Alberta Utilities Commission (Commission), the successor of the Board.

4. On June 9, 2008, EEC filed an application jointly with the Consumers' Coalition of Alberta (CCA), the Office of the Utilities Consumer Advocate (UCA) and the Public Institutional Consumers of Alberta (PICA), requesting the Commission's approval of certain amendments to the EPSP (EPSP Amendment). On September 30, 2008, the Commission issued Decision [2008-091](#) in respect of the EPSP Amendment.

5. This Cost Order considers the costs incurred for the monthly filings of 2009, quarter 3 (2009 Q3).

6. On November 13, 2009, a summary of the costs being claimed for 2009 Q3 was circulated to interested parties. Parties were advised that any comments regarding the figures listed in the summary or the merits of the total costs claimed were to be filed by November 27, 2009. The Commission did not receive any comments. Accordingly, the Commission considers, for the purposes of this Cost Order, the cost process to have closed on November 27, 2009.

2 VIEWS OF THE COMMISSION – AUTHORITY TO AWARD COSTS

7. When assessing the cost claims submitted in respect of 2009 Q3 pursuant to section 21 of the *Alberta Utilities Commission Act*, the Commission applies Rule 022, Rules on Intervener

Costs ([Rule 022](#)). Before exercising its discretion to award costs, the Commission must consider whether the participant acted responsibly and contributed to a better understanding of the issues before the Commission, and whether the costs claimed are reasonable and directly and necessarily related to the proceeding. The Commission considers these factors in light of the scope and nature of the issues in question.

8. Rule 22 was amended, effective October 1, 2008. On March 27, 2009, the Commission released Bulletin 2009-06 regarding the continuing treatment of cost claims under existing EPSPs, stating that:

The Commission has determined that, for the remainder of the term of these existing EPSPs, the Commission will assess the cost claims filed by parties participating in these EPSP processes (including the determination of eligibility for costs) by applying the cost rule – namely, Rule 022 – and the *Scale of Costs* in effect at January 1, 2008, at the time the Commission was established.¹

3 VIEWS OF THE COMMISSION – TREATMENT OF COSTS

9. In considering the cost claims submitted in respect of 2009 Q3, the Commission notes the treatment of costs provided for in Sections 13, 20 and 21 of the Terms of Settlement:

13. Costs and Margins to be Included in Rates

(a) EEC will recover from Eligible Customers, and Eligible Customers will pay to EEC the following amounts during the Term:

(...)

(ii) estimated costs and expenses of the Independent Advisor, the CCA and PICA, based upon invoices submitted to EEC, in accordance with sections 20 and 21;

20. Costs and Expenses of the Independent Advisor

Within 30 days following the receipt of invoices from the Independent Advisor, EEC will pay the reasonable costs and expenses incurred by the Independent Advisor in connection with these Terms of Settlement. The rates charged by the Independent Advisor will not exceed the scale of costs established by the EUB.

21. Costs and Expenses of CCA and PICA

Within 30 days following receipt of invoices from the CCA and PICA, EEC will pay the reasonable costs and expenses incurred by those Parties in connection with these Terms of Settlement. If any of the costs and expenses of the CCA or PICA are subsequently reduced or disallowed by the EUB, the Party whose costs and expenses were reduced or disallowed will pay to EEC the amount by which the costs and expenses were reduced or disallowed, within 30 days of the date of the relevant EUB cost order. The rates charged by consultants, contractors or counsel to the CCA or PICA will not exceed the scale of costs established by the EUB.

¹ Alberta Utilities Commission Bulletin 2009-06: Cost Claims Under Existing RRO Energy Price Setting Plans (March 27, 2009).

10. By way of letter dated November 16, 2006, EEC indicated to the Board that no specific direction to record any costs approved under the EPSP to a hearing cost reserve account is required given the treatment of costs provided for in the Terms of Settlement.

4 VIEWS OF THE COMMISSION - ASSESSMENT

4.1 Independent Advisor

11. The Commission received a cost claim from EEC for Forte Business Solutions Ltd., the Independent Advisor, in the amount of \$9,750.00. The claim represents 11 hours of consulting services in July, 12 hours in August, and 27 hours in September, for a total of 50 hours.

4.2 CCA

12. The Commission received a cost claim from the CCA for Professional Regulatory Services, Inc. in the amount of \$2,306.61. The claim is comprised of consulting fees in the amount of \$1,800.00, together with disbursements and GST of \$397.02 and \$109.59, respectively. The claim represents 1 hour of consulting services in July, 1 hour in August, and 7 hours in September, for a total of 9 hours.

4.3 PICA

13. The Commission received a cost claim from the Public Institutional Consumers of Alberta (PICA) for Energy Management & Regulatory Consulting Ltd. in the amount of \$843.75. The claim represents 1 hour of consulting services in August, and 3.75 hours in September, for a total of 4.75 hours.

4.4 Summary

14. By way of letter dated May 10, 2007, the Board issued a direction to interested parties providing filing deadlines and notice of the Board's expectation that the claims will only reflect the hours incurred for each quarter's respective months. The Commission has reviewed the cost claims submitted for 2009 Q3 and notes that the claims are filed in accordance with the Board's direction of May 10, 2007.

15. The Commission relies heavily on the representations of the applicant and interveners in assessing costs for processes, such as those that occur under the EPSP, that are conducted without the Commission's direct involvement. In doing so, the Commission expects that statements of justification will provide enough information for the Commission to understand all material components of the costs claimed.

16. The Commission has reviewed the cost claims from the Independent Advisor, CCA and PICA, bearing in mind the principles specified in the Commission's *Scale of Costs* set out in Appendix A to Rule 022. The Commission finds that the hours incurred are not unreasonable for the tasks described in the accountings and the Commission considers the cost claims submitted for 2009 Q3 to be reasonable and approves them in full.

5 GST

17. In accordance with the Commission's treatment of the GST on cost awards, EEC is required to pay only that portion of the GST paid by interveners that may not be recoverable through the GST credit mechanism, accordingly where parties are eligible for a GST credit the

Commission has reduced this particular portion of their claim. Eligible GST approved by the Commission amounts to \$109.59.

18. The Commission emphasizes that its treatment of the GST claimed in no way relieves participants or their lawyers and consultants from their GST obligations pursuant to the *Excise Tax Act*, R.S.C. 1985, c. E-15.

6 ORDER

IT IS HEREBY ORDERED:

1. ENMAX Energy Corporation shall pay costs of \$9,750.00 to the Independent Advisor, Forte Business Solutions Ltd.
2. ENMAX Energy Corporation shall pay costs of \$2,306.61 to the Consumers' Coalition of Alberta.
3. ENMAX Energy Corporation shall pay costs of \$843.75 to the Public Institutional Consumers of Alberta.

Dated on February 17, 2010.

ALBERTA UTILITIES COMMISSION

(Original signed by)

Thomas McGee
Commissioner