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December 5, 2016 *- via Electronic Filing -*

Alberta Utilities Commission
Fifth Avenue Place
4th Floor, 425 – 1 Street SW
Calgary, AB T2P 3L8

Attention: JP Mousseau
Commission Counsel, Alberta Utilities Commission

Dear Sir:

RE: ENMAX Corporation ("ENMAX")
Response to AUC Bulletin 2016-019 dated November 1, 2016
Stakeholder consultation on proposed amendments to AUC Rule 001: Rules of Practice

On November 1, 2016 the Alberta Utilities Commission ("Commission") issued Bulletin 2016-019 for Stakeholder consultation on proposed amendments to AUC Rule 001: Rules of Practice. Please find attached ENMAX Corporation's comments on the proposed Rule 001 changes.

Please contact Kurtis Hildebrandt at 403-689-6319 if you have any questions regarding this letter.

Sincerely,

Digitally signed by Kurtis Hildebrandt
Date: 2016.12.05 14:13:18 -07'00'

Kurtis Hildebrandt
Director, Regulatory Affairs
ENMAX Corporation

ENMAX Comments on AUC Draft Rule 001

AUC Draft Rule Section	ENMAX Comments
1 –Definitions	Consider adding definition of "submission." This term is used but not defined (see s. 21.2, for example).
2.2	This provision refers to "the most fair, expeditious and efficient determination on its merits of every proceeding before the Commission." Consider deleting "most." With the qualifier "most" these three criteria may, in many cases, be inconsistent or mutually exclusive. The most expeditious and efficient determination may not be the most fair, and the most fair may not be the most efficient or expeditious. Of the three, ENMAX submits that fairness is arguably the most important, and should be given priority over efficiency and expedition. It is noted that the qualifier "most" is not used in sections 2.3 and 3.1(a).
4.4	This provision permits a person to make a request to keep personal information in a document confidential. The request may be made by e-mail or phone, but must include the document. The requirement to include a document appears to effectively make a phone request impossible.
7.1	Consider adding a clause to the end of this section to the following effect, "…but in all cases in a manner that is likely to come to the attention of the parties considering all the circumstances of the case."
11.1	In ENMAX's view, an applicant should have the right to make submissions on standing. As drafted, an applicant may only make submissions if the Commission directs.
12.4	There is some inconsistency in the rule as it relates to the withdrawal of a SIP. This section allows a person or party to withdraw a SIP by filing a written request to withdraw. However, as drafted, this section gives such a person the right to withdraw. It is therefore not a

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	request to withdraw, but a notice of withdrawal. Contrast this with sections 12.1 and 12.2, where a request by an applicant to withdraw an application must be granted by the Commission.
15.1	This section requires an applicant to provide paper copies to parties who cannot access the eFiling system. This is not practical for very large spreadsheets, for example, and may be very expensive for large and numerous maps or large applications more generally. Consider allowing applicants to seek approval for alternative means of providing such documents.
18/19	This section refers only to "documentary evidence" and may have the unintended consequence of allowing parties to adduce oral evidence, thereby avoiding the obligation to provide their evidence in writing. Consider changing this section to read "All evidence…" The use of the word "written" in section 19.2 creates a similar issue.
20.1 and 20.2	These sections require affidavits to be based on facts or information and belief. In utility proceedings, the line between fact and opinion is not always clear. For example, that a utility has made forecast is a fact, but the forecast itself is not a fact. Rather, it is a form of opinion evidence. Taken literally, section 20.1 would prohibit affidavits from including information about forecasts. Additionally, since the section dealing with motions no longer requires motions to be supported by an affidavit, it is not clear when an affidavit would be used, other than in instances where a party is not required to appear personally to adopt pre-filed written evidence in a hearing, in which case the affidavit would simply provide the statements required by section 42.2, or under section 17.6.
24.3	This section indicates that section 24 (Information Requests) does not apply to a proceeding commenced by the MSA or an enforcement proceeding unless otherwise directed. This

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	provision is redundant, since section 24.1 only permits a party to make an IR in accordance with a direction of the Commission.
25.1(b)	This is not practical when it comes to corporate evidence, where the specific identity of the drafter is not important in the way it is for "personal" evidence (e.g., expert evidence, evidence from individual interveners).
27.2(b)(iii), 27.4(b) and 27.6(b)	These sub-sections refer to "oral" evidence being adduced in support of a motion. Parties should have all evidence in support of a motion reduced to writing and provided in advance.
27.3	This section states that unless otherwise directed, a party to whom a motion is directed may file a response to the motion. This is unduly narrow. A party who may be affected by the relief sought in a motion should have the right to respond to the motion.
28.7(c)	This section states that a confidential document provided to the Commission for the purposes of determining a request for confidential treatment cannot be protected. Parties should be permitted to password protect confidential information, but should be required to provide the password to the senior records officer under separate cover. ENMAX notes that under section 28.12(c), confidential materials provided once the Commission has granted the request for confidential treatment may be password protected (a "secured electronic copy").
28.12(a)	This section requires a party who wishes to receive confidential materials to file a confidentiality undertaking (Form RP5) and "its protocol for the treatment of confidential documents it receives." It is not clear whether there will be a standard form protocol, or whether each party must prepare its own (in which case, the contents should be prescribed in the rules).
28.13-28.15	In cases where the Commission denies a request for confidential treatment, it may require the requesting party to place the confidential or commercially sensitive information or

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	document on the public record (28.13), and the requesting party must comply if the document was request in an IR or other direction of the Commission (28.14). ENMAX submits that a requesting party should have the right to withdraw any confidential information or document under section 28.14.
31.1	This section states that a person who wishes to file a document after the time limit has elapsed, may bring a motion seeking the Commission's permission to file the document. In some instances, parties experience technical problems that result in a filing that is a few minutes or hours late. The requirement to file a motion in such cases is onerous. Consider an exception to the motion requirement for minor lateness, such as filings that are made within a specified time after the prescribed time (e.g., not more than 2 hours after the deadline). Alternatively, the application officer could be given the authority to waive the motion requirement in such cases if he or she is notified before the deadline that a party is experiencing technical difficulties.
32.1(d)	This section allows the Commission to direct that a process meeting be held "to decide any other matter that may aid in the simplification or the fair and expeditious disposition of the proceeding." ENMAX suggests that this language should be the same as the language in section 2.2, namely "fair, expeditious and efficient."
41.4	This section provides that where a question is directed to a specific member of a panel and that person is not able to answer the question, the witnesses may only confer with the permission of the Commission. ENMAX is concerned that this is overly prescriptive. The questioner often does not fully understand the areas of responsibility of each witness, and may direct a question to a particular witness without caring whether that specific witness answers the question. ENMAX believes that a process where a question is directed at a specific witness, the witnesses may confer unless the person asking the question objects, in which case the Commission will rule on the objection.

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42.2	This section requires that a witness must confirm that the documentary evidence was prepared by the witness or under the witness' direction or control and is accurate to the best of the witness' knowledge or belief. The requirement that a witness confirm that the evidence was prepared by the witness or under the witness' direction or control can cause problems with corporate evidence. For example, at the time an application is prepared, Ms. Jones may be the director of Human Resources, and the HR, labour and pension portion of the application was prepared under her direction or control. However, by the time of the hearing, Ms. Jones is no longer in that position or has left the company, and Mr. Smith is now the director of Human Resources. The HR evidence was not prepared under Mr. Smith's direction or control, but he has reviewed the evidence, takes responsibility for it and is prepared to adopt it. In these circumstances, Mr. Smith should be permitted to be the witness for the HR evidence, notwithstanding that it was not prepared under his direction or control. This is reasonable in the context of corporate evidence, in ENMAX's submission. The evidence is not the personal evidence of the individual who prepared the evidence (or under whose direction it was prepared). Rather, it is the evidence of the corporation, with the result that the important consideration is that someone with authority to speak for the corporation takes responsibility for and adopts the evidence on behalf of the corporation.