



AUC

Alberta Utilities Commission

ENMAX Power Corporation and AltaLink Management Ltd.

No. 65 Substation and Interconnection

November 3, 2011

The Alberta Utilities Commission

Decision 2011-435: ENMAX Power Corporation and AltaLink Management Ltd.

No. 65 Substation and Interconnection

Application Nos. 1606861 and 1607033

Proceeding ID No. 1007

November 3, 2011

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The Alberta Utilities Commission

Fifth Avenue Place, Fourth Floor, 425 First Street S.W.

Calgary, Alberta

T2P 3L8

Telephone: 403-592-8845

Fax: 403-592-4406

Website: www.auc.ab.ca

1 Introduction and background

1. ENMAX Power Corporation (ENMAX) filed Application No. 1606861 with the Alberta Utilities Commission (AUC or the Commission) on December 16, 2010, for approval from the Commission to construct and operate a new 240-kilovolt (kV)/138-kV substation designated as No. 65 substation (the proposed substation). The proposed substation would be located in SW 36-22-29-W4M, which is east of 88 Street S.E. and north of Marquis of Lorne Trail within the city of Calgary.
2. AltaLink Management Ltd. (AltaLink) filed Application No. 1607033 with the AUC on February 16, 2011, for the interconnection of the proposed substation to the Alberta Interconnected Electric System.
3. The proposed substation and interconnection (the project) has been designated as a critical transmission infrastructure project under the *Electric Utilities Act*. Accordingly, the Commission cannot consider the need for this project when determining whether its approval is in the public interest.
4. The Commission issued a set of information requests to ENMAX and AltaLink on March 10, 2011. AltaLink responded to the information requests on March 31, 2011. ENMAX responded to the information request on April 6, 2011.
5. A notice of hearing was issued on April 15, 2011, for this proceeding. The notice of hearing was mailed directly to approximately 700 land title holders who reside upon or occupy land within 800 metres of all proposed transmission facilities. In addition, the notice of hearing was published in the Calgary Herald and the Calgary Sun on April 21, 2011. The notice included the date and location of the public hearing as well as the schedule established by the Commission to process the applications. Four submissions were received in response to the notice of hearing.
6. The Commission issued a second set of information requests to ENMAX on May 17, 2011. ENMAX responded to the information requests on June 6, 2011. The Commission deemed the applications to be complete on June 6, 2011.
7. With respect to determining which parties might have standing to participate in the proceeding, the Commission had sufficient information from one corporate intervener to determine whether its rights might be directly and adversely affected by a decision of the Commission in respect of the applications. However, insufficient information in this regard had been provided by the three individuals who made submissions in response to the notice of hearing. On May 17, 2011, the Commission requested these three individuals to provide further information to indicate how their rights may be directly and adversely affected.

8. On June 10, 2011, the Commission issued standing rulings to all parties who responded to the Commission's notice of hearing. Copperview Developments Inc. (Copperview) was the only party granted standing to participate in the proceeding as an intervener.¹
9. On June 10, 2011, the Commission issued a revised notice of hearing which included a revised process schedule as well as a new commencement date of September 19, 2011, for the public hearing. The revised notice of hearing was mailed directly to approximately 700 land title holders who reside upon or occupy land within 800 metres of all proposed transmission facilities. The revised notice of hearing was also sent to registered parties by email and published on the Commission's website.
10. On August 5, 2011, the Commission held a pre-hearing meeting in Calgary before Vice-Chair Carolyn Dahl Rees. The pre-hearing meeting was held at the Commission's hearing room in Calgary, Alberta.
11. On August 10, 2011, the Commission issued Decision [2011-336](#): ENMAX Power Corporation and AltaLink Management Ltd. - No. 65 Substation and Interconnection, Pre-Hearing Meeting² setting out the findings made at the pre-hearing meeting.
12. On September 12, 2011, Copperview informed the Commission that it has no further objections to the applications and did not intend to participate further in the proceeding.
13. On September 12, 2011, the Commission cancelled the hearing, previously scheduled to begin on September 19, 2011, as there were no persons with standing requesting that the Commission hold a hearing with respect to the project.
14. In reaching the determinations set out in this decision, the Commission has considered the complete record of the proceeding, including the pre-hearing meeting and the submissions and statements of intention to participate provided by each party. References in this decision to specific parts of the record are intended to assist the reader in understanding the Commission's reasoning relating to a particular matter and should not be taken as an indication that the Commission did not consider all relevant portions of the record as it relates to that matter.

2 Legislative framework

15. The applications were filed under sections 14, 15 and 18 of the *Hydro and Electric Energy Act* which include, in part:

14(1) No person shall construct a transmission line or any part of a transmission line unless the person is the holder of a permit issued by the Commission.

...

15 No person shall operate a transmission line unless the person is the holder of a subsisting license to operate the transmission line, issued by the Commission.

¹ Exhibit No. 50 – AUC Ruling to Copperview Developments Inc.

² Decision 2011-336: ENMAX Power Corporation and AltaLink Management Ltd. - No. 65 Substation and Interconnection, Pre-Hearing Meeting, Application Nos. 1606861 and 1607033, Proceeding ID No. 1007, August 10, 2011.

18(1) The owner or operator of a power plant, transmission line or electric distribution system shall not connect that power plant, transmission line or electric distribution system, or cause or permit it to be connected,

- (a) to any other power plant, transmission line or electric distribution system, unless the connection is in accordance with an order under this section...

16. The project is classified as “critical transmission infrastructure” as defined in the following respective legislative provisions, namely Section 13.1(1) of the *Hydro and Electric Energy Act* and Section 1(1)(f.1) of the *Electric Utilities Act*:

13.1(1) In this section, “critical transmission infrastructure” means critical transmission infrastructure as defined in the Electric Utilities Act.

1 (1) (f.1) “critical transmission infrastructure” means a transmission facility designated under section 41.1 or the Schedule as critical transmission infrastructure.

17. The schedule to the *Electric Utilities Act* designates critical transmission infrastructure and describes the project as follows:

3 A new 240 kV substation to be built in the southeast area of the City of Calgary.

18. Section 13.1(2) of the *Hydro and Electric Energy Act* states:

13.1(2) The construction, connection and operation of a transmission line or part of a transmission line that is designated as critical transmission infrastructure is required to meet the needs of Alberta and is in the public interest.

19. In addition, the following respective legislative provisions, namely Section 19(1.1) of the *Hydro and Electric Energy Act* and Section 17 of the *Alberta Utilities Commission Act* further describe the Commission’s jurisdiction as it relates to critical transmission infrastructure. Those sections read as follows:

19(1.1) Notwithstanding subsection (1), the Commission shall not refuse an approval of a transmission line or part of a transmission line designated as critical transmission infrastructure as defined in the Electric Utilities Act on the basis that, in its opinion, it does not meet the needs of Alberta.

17(1) Where the Commission conducts a hearing or other proceeding on an application to construct or operate a hydro development, power plant or transmission line under the Hydro and Electric Energy Act or a gas utility pipeline under the Gas Utilities Act, it shall, in addition to any other matters it may or must consider in conducting the hearing or other proceeding, give consideration to whether construction or operation of the proposed hydro development, power plant, transmission line or gas utility pipeline is in the public interest, having regard to the social and economic effects of the development, plant, line or pipeline and the effects of the development, plant, line or pipeline on the environment.

17(2) The Commission shall not under subsection (1) give consideration to whether critical transmission infrastructure as defined in the Electric Utilities Act is required to meet the needs of Alberta.

3 ENMAX application

20. ENMAX submitted that the proposed substation would be located near the intersection of Highway 22X and 88 Street S.E., in the city of Calgary, designated as Option 1 in ENMAX's application.³ ENMAX also proposed the construction of two 138-kV transmission lines, approximately one kilometre in length, which would be required to connect the proposed substation to an existing transmission line to the Alberta Interconnected Electric System. ENMAX stated that the proposed substation and interconnection are partially located within the transportation and utility corridor and require Ministerial Consent from Alberta Infrastructure. By letter dated September 9, 2010, ENMAX was granted Ministerial Consent (File Number MCC10-0026)⁴ to construct the proposed substation on a site located partially within the transportation and utility corridor.

21. To connect the proposed substation to the Alberta Interconnected Electric System, ENMAX proposed that its existing 138-kV transmission line 138-24.82 would be re-configured into two lines to be designated as 138-24.82 and 138-26.83. Both of the transmission lines would terminate at the proposed substation.

22. ENMAX retained Cirrus Environmental Services Inc. (Cirrus) to conduct a Phase I and Phase II environmental site assessment (ESA) for the proposed substation site. ENMAX submitted that based on the ESA, Cirrus concluded that the potential for negative environmental conditions existing within the proposed substation site is low and warranted no further investigation.

23. ENMAX stated that Cirrus was also retained to conduct a Phase I ESA for the two proposed 138-kV transmission line routes and concluded that the potential for negative environmental conditions for the proposed transmission lines are low.

24. ENMAX retained ATCO Structures and Logistics (ATCO) to conduct a noise impact assessment (NIA) for the proposed substation. As stated in the NIA report, ATCO predicted noise levels for five receptors, including the two closest residential receptors, and predicted that the proposed substation would exceed the night-time permissible sound level (PSL) prescribed by AUC Rule 012: *Noise Control* (AUC Rule 012) at the two residential receptors by 1 dBA.

³ At the pre-hearing meeting, Copperview stated that it was under the impression that the location identified as Option 2 alternative in ENMAX's application was an applied-for alternate location for the substation (Transcript Volume 1, page 10 lines 15-25, page 11 lines 1-6). Both applicants stated that the application is clear that the only applied-for location for the substation is the one identified as Option 1 and referred to the notice of hearing issued by the Commission which clearly identified only one location applied-for by ENMAX for the substation. In Decision 2011-336, the Commission stated that the only substation location that is available for consideration in the application is the one identified as Option 1.

⁴ Exhibit No. 72-EPC-1007: ENMAX Ministerial Consent for No. 65 Substation.

25. ATCO recommended that ENMAX conduct a post-construction comprehensive noise survey in order to determine the actual noise levels. ENMAX accepted this recommendation and submitted that if the post-construction comprehensive noise study demonstrates that the facility does not comply with AUC Rule 012, mitigation measures are available to ensure that the facility can be brought into compliance.
26. In a response to the Commission's information request (AUC.EPC-005),⁵ ENMAX stated that the proposed substation site used in the original NIA report was incorrect. ENMAX conducted a second NIA using the correct proposed substation location. The new NIA report indicated that only one receptor was predicted to exceed the PSL prescribed in AUC Rule 012. ENMAX anticipated that that proposed substation would be in compliance with AUC Rule 012 at all receptors as the NIA modelling used conservative input parameters. ENMAX stated that it would confirm noise levels by taking actual sound measurements upon completion of the substation. ENMAX committed to installing mitigation measures, such as a berm, to ensure the proposed substation would be in compliance with AUC Rule 012.
27. ENMAX requested that the Commission approve its application on the condition that ENMAX conducts a comprehensive noise survey upon the installation of the transformers at the proposed substation.
28. ENMAX confirmed that it has applied for and received a *Historical Resources Act* clearance from Alberta Culture and Community Spirit.
29. ENMAX submitted that a comprehensive public consultation process was conducted which met the requirements of AUC Rule 007: *Applications for Power Plants, Substations, Transmission Lines and Industrial System Designations* (AUC Rule 007), and included consultation and notification with all landowners, occupants and residents adjacent to the proposed 138-kV interconnection as well as the proposed substation, and all other parties that expressed interest in the project.
30. As noted in the pre-hearing meeting, the Commission conducted a visit to the site proposed by ENMAX for the proposed substation and has observed its proximity to the transportation infrastructure that is currently under construction.
31. ENMAX estimated that the proposed substation and 138-kV transmission lines cost would be \$31.1 million, with an estimate accuracy of plus 20 per cent or minus 10 per cent.

4 AltaLink application

32. AltaLink proposed to connect the proposed substation to the Alberta Interconnected Electric System by altering its existing 240-kV transmission line known as 911L and constructing approximately 400 metres of double-circuit 240-kV transmission line to create an in-out configuration into the proposed substation. The existing transmission line 911L is located on one side of the double circuit towers with existing 138-kV transmission line 850L on the other side.

⁵ Exhibit No. 29.01-EPC-1007: EPC Responses to AUC.

33. AltaLink stated that it has acquired an option to purchase a 75 metre by 295 metre parcel of land between the existing transmission lines 911L and 850L and the proposed substation for the construction of the new double-circuit transmission line.

34. In order to facilitate the interconnection of the proposed substation to transmission line 911L, AltaLink submitted that it would be necessary to swap positions of transmission lines 911L and 850L on the double-circuit structures so that transmission line 911L would be located on the west side of the double-circuit towers and would be closer to the proposed substation. This could be accomplished by installing six new wood structures near the existing Janet 74S substation and by installing a cross over structure at structure 40 of transmission line 911L. The six new proposed structures near the existing Janet 74S substation would be on AltaLink property outside of the existing fence line for the Janet 74S substation. The proposed cross over structure at structure 40 of transmission line 911L would be located on the existing AltaLink right-of-way.

35. After the interconnection of transmission line 911L to the proposed substation, the transmission line between Peigan 59S substation and the proposed substation would remain designated as 911L while the transmission line between the proposed substation and the existing Janet 74S substation would be renumbered to become 1080L.

36. As the proposed substation site is very close to the existing transmission line 911L, AltaLink submitted that there was no other route option for the interconnection. Notwithstanding this limitation, AltaLink submitted that it consulted with ENMAX, Alberta Transportation and Infrastructure, Chinook Roads Partnership (the entity responsible for the development of the transportation and utility corridor ring road in the area), and one landowner.

37. AltaLink submitted that it conducted a participant involvement program in accordance with Appendix A of AUC Rule 007 and included delivery of project specific information packages, open houses, and personal consultation.

38. AltaLink stated that the project area in its application is confined to ENMAX property, AltaLink's existing rights-of-way, or previously disturbed and cleared land either owned by or to be purchased by AltaLink. As such, AltaLink submitted that environmental impacts of the project are expected to be minimal as the project is sited on previously disturbed land where there are no natural water bodies or vegetation and wildlife species at risk within the project area.

39. AltaLink submitted that Alberta Culture and Community Spirit concluded that a historical resource impact assessment is not required for the project.

40. AltaLink estimated that the 240-kV transmission lines and alterations cost would be \$6.9 million, with an estimate accuracy of plus 20 per cent or minus 10 per cent.

5 Commission Findings

41. The Commission considered the applications pursuant to sections 14, 15 and 18 of the *Hydro and Electric Energy Act*. The Commission also considered that the project has been classified as “critical transmission infrastructure” as defined in Section 13.1(1) of the *Hydro and Electric Energy Act* and Section 1(1)(f.1) of the *Electric Utilities Act*, and does not require a needs identification document to be filed by the Alberta Electric System Operator for the project.

42. The Commission receives submissions from persons or organizations seeking the opportunity to participate, and considers each submission on its own merits. Pursuant to Section 9 of the *Alberta Utilities Commission Act*, the Commission is required to hold a hearing if it appears to the Commission that its decision, with respect to the application, may directly and adversely affect the rights of a person. The test set out in this section is whether a person or organization seeking to participate in a proceeding has shown that the person has rights known to the law and can show that those rights may be directly and adversely affected by a decision of the Commission on the application. This test is set out in the case of *Cheyne v. Alberta (Utilities Commission)*, 2009 ABCA 348. If this test is met, then the Commission would consider that person to have standing and the Commission would proceed with a public hearing at which that person would be able to participate. Typically, this test is met by a person who owns or occupies land in proximity to a proposed development, and who substantiates an interest, with a direct bearing on his or her lands or other right known to law, which could be directly and adversely impacted by a decision of the Commission with respect to the application. This is the essence of the test for standing as set out in the *Cheyne* case and Section 9(2) of the *Alberta Utilities Commission Act*. Matters of interest to parties living some distance from a proposed project and matters of general interest to persons in Alberta do not typically meet the statutory test for standing unless they are able to show that their rights may be directly and adversely impacted by a decision of the Commission with respect to the application.

43. In response to the Commission’s published notice of hearing, the Commission received four submissions, three from individuals⁶ and one from Copperview Developments Inc., seeking standing to participate in the hearing on the basis that they felt that their rights would be affected by a decision of the Commission with respect to the application.

44. The Commission considered each of the submissions from parties in light of the test it applies in relation to standing, as well as all additional information submitted by the parties with respect to their claims. On June 10, 2011, the Commission ruled that none of the parties seeking standing would be directly and adversely affected by the Commission’s decision in this proceeding, with the exception of Copperview.

45. The Commission notes that the only party with standing to intervene in the proceeding, Copperview, withdrew its objection to the applications on September 12, 2011 and, therefore, there are no outstanding objections to the applications from parties with standing. On September 12, 2011, the Commission issued a letter indicating that the hearing with respect to this matter was cancelled.⁷

⁶ The Commission received submissions from Mr. Kenneth Cappos, Ms. Anastasia Kutryk and Ms. Olga Yewchuk.

⁷ Exhibit No. 81 – AUC letter Re: Cancellation of hearing.

46. It is the established practice of the Commission and its predecessor tribunal, to process an application on its own review if there are no parties with standing who trigger a public hearing pursuant to the Commission's governing legislation.

47. Regardless of whether a public hearing is held with respect to an application, the Commission has a duty to examine every application to determine whether the project as applied-for is in the public interest, having regard to the social, economic and environmental impacts of the project, in accordance with Section 17 of the *Alberta Utilities Commission Act*. Accordingly, the Commission has reviewed the application and all of the information submitted on the record in making its public interest determinations in this case.

48. The Commission notes that the maximum sound level at one receptor was predicted to be higher by 1 dBA Leq than the permissible night-time sound level of 40 dBA Leq set out in AUC Rule 012. The Commission notes that ENMAX has committed to a post-construction comprehensive noise study to ensure post-construction compliance with AUC Rule 012.

49. The Commission directs ENMAX to conduct a post-construction comprehensive noise study to determine whether the facility complies with the requirements of AUC Rule 012.

50. The Commission has reviewed the information submitted by Cirrus in respect of ENMAX's application, and accepts ENMAX's conclusion that the potential is low for negative environmental impacts to occur as a result of the proposed substation and 138-kV transmission lines. The Commission notes that the project area is located on land used primarily for agricultural purposes or industrial purposes. Furthermore, the substation site is located mostly within the transportation and utility corridor and is sited on land allocated for the development of infrastructure.

51. The Commission has reviewed the information submitted by AltaLink with respect to the environmental impact of the 240-kV interconnection facilities included in the project, and accepts AltaLink's statement that environmental impacts of the 240-kV interconnection facilities are expected to be minimal as the project is sited on previously disturbed land where there are no natural water bodies or vegetation and wildlife species at risk within the project area.

52. Further, the Commission notes that the Department of Infrastructure has provided a Ministerial Consent to the location of the proposed substation at the location applied-for which is partially within the boundaries of the transportation and utility corridor.

53. The Commission finds that ENMAX's and AltaLink's participant involvement programs were consistent with the requirements of AUC Rule 007.

54. The Commission notes the estimated costs for the project as submitted by ENMAX and AltaLink and is not making a finding as to whether the costs are prudent at this time. That consideration takes place at each applicant's next general tariff application, where it may be required to provide additional information with respect to the actual costs incurred with respect to its portion of the project. The Commission notes that the proposed project would meet its purpose, which is to improve capacity and reliability of electric supply in south Calgary,

including ensuring the reliability of electric supply to the South Health Campus, in response to current and future electricity demand.⁸

55. The Commission considers that the costs set out in the applications appear reasonable to the extent that an estimate of construction costs can be.

56. Having reviewed the applications, the Commission considers that the technical, siting and environmental aspects of AUC Rule 007 have been met for the proposed substation and interconnection of the 138-kV transmission lines and 240-kV transmission lines, and related facilities as set out in the applications filed by ENMAX and by AltaLink.

57. The Commission finds that the project as applied for meets the requirements set out in Section 3 of the schedule to the *Electric Utilities Act* and is in the public interest, having had regard to the social and economic effects of the transmission facility and its effects on the environment, pursuant to Section 17 of the *Alberta Utilities Commission Act*.

6 Decision

58. The Commission approves ENMAX's Application No. 1606861 pursuant to sections 14, 15, 18 and 19 of the *Hydro and Electric Energy Act* for the construction and operation of No. 65 substation and related transmission lines.

59. The Commission approves AltaLink's Application No. 1607033 pursuant to sections 14, 15, 18 and 19 of the *Hydro and Electric Energy Act* for altering the related transmission lines and interconnecting No. 65 substation to the Alberta Interconnected Electric System.

60. Permits and licences for the project facilities will be issued separately as appendices by the Commission to ENMAX and AltaLink, as applicable based on the specific facilities applied-for.

⁸ Exhibit 001 – ENMAX Application, paragraphs 3 and 20; in addition to the Draft 2011 AESO Long-term Transmission Plan, filed with the Commission pursuant to section 10 of the *Transmission Regulation* (A.R. 86/2007), which states, at page 91:

The City of Calgary peak load is expected to reach approximately 2,000 MW by 2020. Based on information from the City of Calgary's land use planning department, the south part of the city in particular is expected to continue to grow. The construction of a new South Health Campus in the southeast sector indicates an increasing population in the south area specifically. In addition, the South Health Campus requires a geographically separate redundant electric supply to ensure a reliable supply of electricity.

The transmission system into the south part of the City of Calgary requires reinforcement. Currently, there are three 138 kV circuits supplying south Calgary and if one of these circuits is out of service for maintenance, a subsequent outage would result in the requirement for planned outages to keep the remaining 138 kV circuit from overloading.

The proposed development to supply south Calgary includes a new 240/138 kV substation near the intersection of 88 Street SE and Highway 22X and associated 138 kV and 240 kV lines to interconnect into the existing system. The anticipated in-service date for this development is 2012.

61. An amended licence to operate the portion of transmission line 911L within the boundaries of Peigan Indian Reserve I.R. 147 will be issued by the Commission to the owner, TransAlta Corporation.

Dated on November 3, 2011.

The Alberta Utilities Commission

(original signed by)

Carolyn Dahl Rees
Vice-Chair

(original signed by)

Kay Holgate
Commission Member

(original signed by)

Moin Yahya
Commission Member