



University of Alberta

Electric Distribution System

December 21, 2012



The Alberta Utilities Commission

Decision 2012-355: University of Alberta

Electric Distribution System

Application No. 1608052

Proceeding ID No. 1668

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1 Introduction

1. The University of Alberta (U of A or the University) by Application No. 1608052 registered on January 13, 2012, applied to the Alberta Utilities Commission (AUC or Commission) pursuant to sections 28 and 42 of the *Hydro and Electric Energy Act* for approval to own and operate an electric distribution system within the service area of EPCOR Distribution & Transmission Inc. (EPCOR).
2. Further the U of A, pursuant to Section 18 of the *Hydro and Electric Energy Act*, requested a connection order to connect its distribution system to that of EPCOR.
3. The University also requested an exemption from the definition of “electric utility” pursuant to Section 117(1)(a) of the *Electric Utilities Act*.

2 Background

4. The province of Alberta, through the Alberta Department of Public Works (the Province), operated an electric distribution system in the greater university campus area prior to June 1, 1971.
5. Pursuant to a Renewal Bulk Power Agreement, dated January 1, 1969, between the City of Edmonton and the Province, the City of Edmonton agreed to supply electric energy and the Province agreed to purchase bulk power for the purpose of operating its electric distribution system, which served the greater campus area.
6. The Province transferred ownership and operation of the electric distribution system to the University on March 31, 1974. As a result of the transfer of ownership, the University assumed operating responsibility for the electric distribution system. Shortly thereafter, on November 1, 1974, the City of Edmonton entered into an agreement with the University in similar terms to those contained in the Renewal Bulk Power Agreement of 1969. The City of Edmonton agreed to supply electric energy to the University and the University agreed to purchase bulk power for the purposes of distribution by the electric distribution system, which served the greater campus area.
7. The U of A electric distribution system, by agreement, has always been connected to the Edmonton area electric system, formerly owned by the City of Edmonton and subsequently transferred to EPCOR. Bulk power for the U of A has always been purchased from EPCOR or its predecessors via the city’s distribution system.

8. The U of A and EPCOR confirmed that their systems are currently connected at two locations on 112 Street in the Garneau district of Edmonton. EPCOR explained that although the University distributes electricity to many sites within its campus, for billing purposes, EPCOR considers the University to be a single customer.
9. As the operator of the electric distribution system, the University has a complaint process in place to deal with customer rate complaints should any ever arise.
10. The most recent agreement between EPCOR and the U of A has expired. The University indicated that although both parties accept entering into a new agreement, EPCOR requested the University to obtain formal approvals from the Commission pursuant to the *Hydro and Electric Energy Act*, to own and operate its electric distribution system and connect to EPCOR's system.
11. The University is also seeking an exemption from the definition of "electric utility" pursuant to Section 117(1) of the *Electric Utilities Act* so that it can be exempt from filing a tariff application with the Commission. The University stated that both it and its predecessors rate structure is based on a simple flow through of the actual cost for delivery of electric energy to its users. The rate does not include any costs related to either a return of or a return on capital or any profit or other margin of any type.

3 Legislation

12. Extracts of sections 18, 28 and 42 of the *Hydro and Electric Energy Act* are reproduced as follows:

Connections

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,

Service areas

28(1) The Commission shall, with respect to each electric distribution system, determine, subject to further order under this Part, as the service area of that electric distribution system all areas served with electric energy by it on June 1, 1971, and for the purposes of section 25 each electric distribution system is deemed to have the approval of the Commission to supply electric energy in the service area so determined for it.

Persons deemed to hold approvals, etc.

42(1) If on June 1, 1971 a person was

- (a) operating a hydro development, power plant, transmission line or electric distribution system, or
- (b) constructing a hydro development, power plant, transmission line or electric distribution system under authority provided for in previous legislation,

the person is until further order deemed to be the holder of a subsisting approval, permit or licence covering the operation or construction of the person's hydro development, power plant, transmission line or electric distribution system.

(2) When a person is deemed to be the holder of an approval, permit or licence by reason of subsection (1), the Commission may issue to the person an approval, permit or licence in substitution for the one the person is deemed to hold under subsection (1), on notice, if any, that the Commission considers suitable.

13. Extracts of sections 1 and 117 of the *Electric Utilities Act* are reproduced as follows:

- (o) “electric utility” means an isolated generating unit, a transmission facility or an electric distribution system that is used
 - (i) directly or indirectly for the public, or
 - (ii) to supply electricity to members of an association whose principal object is to supply electricity to its members,
the owner of which
 - (iii) is required by this Act or the regulations to apply to the Commission for approval of a tariff,
 - (iv) is permitted by this Act or the regulations to apply to the Commission for approval of a tariff, and has applied for that approval, or
 - (v) passes a bylaw that has been approved by the Lieutenant Governor in Council under section 138,

Exemptions

117(1) The Commission may make rules

- (a) exempting any facility or class of facilities from the definition of electric utility,

4 Process

14. The AUC processed the application pursuant to sections 18, 28 and 42 of the *Hydro and Electric Energy Act*.

15. The AUC issued round 1 information requests to the University on February 1, 2012, inquiring about EPCOR’s views on the University’s application. EPCOR registered as an intervenor in the proceeding on February 6, 2012. On February 24, 2012, EPCOR responded directly to the round 1 information requests that dealt with EPCOR’s views on the University’s request for an approval to formally recognize the University’s operation of its electric distribution system. EPCOR indicated that it did not oppose the University continuing to operate its electric distribution system but submitted a number of conditions to be included in an AUC approval.¹

16. The AUC issued a second round of information requests to the University on February 6, 2012, and a third round on April 19, 2012. The University responded on February 27 and April 23, 2012, respectively.

17. A technical meeting involving staff from the AUC, the University and EPCOR was held on May 7, 2012 in the AUC’s Calgary office.

¹ Exhibit No. 008.00 EDTI-1668, EPCOR’s responses, including conditions.

18. In a letter addressed to both EPCOR and the U of A, dated June 18, 2012, the Commission requested information regarding the division of duties between the U of A and EPCOR, as required of electric distribution system owners pursuant to Section 105 of the *Electric Utilities Act*.
19. The University responded that it had always and would continue to be responsible for metering and complaint resolution with its customers.
20. EPCOR responded that, historically, it has performed the load settlement functions for the U of A and currently provides load settlement tariff billing data to the Alberta Electric System Operator, the U of A and the U of A's billing agent, Valeo Power. EPCOR submitted that it is willing to continue its role in relationship to load settlement functions.
21. Due to the nature of the application, a notice of application was not issued and, therefore, a hearing was not required as the Commission considered that its decision or order would not directly and adversely affect the rights of a person pursuant to Section 9 of the *Alberta Utilities Commission Act*.

5 Discussion and findings

5.1 Sections 18, 28 and 42 of the Hydro and Electric Energy Act

22. The University stated that its electric distribution system, by agreement, has always been connected to the Edmonton area electric system and bulk power for the U of A has always been purchased from EPCOR or its predecessors via the city's distribution system.
23. The University's immediate predecessor in title operated an electric distribution system in the greater campus area serving the University and other customers on June 1, 1971. In accordance with Section 28(d) of the *Hydro and Electric Energy Act*, a person operating an electric distribution system prior to June 1, 1971, would be deemed to be the holder of a subsisting approval from the Commission to operate the electric distribution system. The subsequent transfer of ownership and operation of the electric distribution system to the University appears to have been a seamless transition between electric distribution system providers. The terms and conditions of the arrangement prior to June 1, 1971 between the City of Edmonton and the Province appear to have continued in the arrangement between the City of Edmonton and the University in its agreement dated November 1, 1974. Moreover, the University has indicated that it currently operates the electric distribution system in accordance with the same terms and conditions of the agreement prepared in 1974.
24. Based on the Province's operation of the electric distribution system prior to 1971 and the seamless transition in ownership to the University without any apparent change in the agreements, except as to ownership of the electric distribution system and reference to the amended city bylaw, the Commission finds that the application meets the requirements of sections 28 and 42 of the *Hydro and Electric Energy Act*. The Commission, therefore, issues approvals in substitution for the deemed approvals pursuant to Section 42(2) of the *Hydro and Electric Energy Act*.

25. Furthermore, in accordance with the reasoning set out above, pursuant to Section 18 of the *Hydro and Electric Energy Act*, the Commission approves the University's connection to EPCOR's distribution system as set out in Appendix 2.

5.2 Section 117 of the Electric Utilities Act

26. The University also seeks an approval pursuant to Section 117 of the *Electric Utilities Act*, and requests that the Commission exempt it from the definition of "electric utility". In particular, the University requests a specific exemption from the filing of a tariff application under the *Electric Utilities Act*, as part of its duties as an electric distribution system owner.

27. The *Electric Utilities Act* focuses on the efficient development and operation of the electricity market. It imposes duties and obligations on owners of electric distribution systems, and requires the preparation of a tariff application so that the prudent costs of providing electric distribution service can be recovered.

28. In its application, the University stated that its rate structure is based on a simple flow through of the actual cost for delivery of electric energy and does not include any return or profit of any kind. The University stated that the rates charged to its customers are determined annually and based on the actual costs for delivery and supply of electric power. The rates are set by the University's Utilities Department, after consultation with the University's customers, and are calculated from budget forecasts of operating costs. Any excess received by the University is held in a separate reserve for the benefit of customers and if the reserves exceed a stipulated level, the excess is returned to customers in proportion to their usage. All capital required to serve its customers is reviewed, approved and provided by the Province.

29. When the Commission asked the University why the exemption is necessary and how it would properly serve the public interest, the University responded as follows:

In determining whether such an exemption is necessary and appropriate in the public interest, it is important to examine the context in which the exemption provision applies. The exemption provision relates to the Part 9, Regulation by the Commission, which applies to electric utilities. The most significant regulatory activity in Part 9 is the approval of tariffs of electric utilities. It is in this context that the nature of the public interest to be protected must be ascertained. Given the nature of the regulatory process contemplated by Part 9, the public interest to be protected is that of the consumers of the electric utility and not some broader interest. The protection provided through the regulatory powers imposed in Part 9 of the Act is to ensure that electric utilities possessing monopoly rights for distribution of electric energy charge just and reasonable rates. The presumption is that without the discipline of the market, utilities with monopoly powers will maximize returns to their owners and the Commission's role is to balance the public interest of the consumer of such services in obtaining necessary services at a fair, reasonable and just rate, and the private interests of the owners to achieve a fair return of and on capital.

The University submits that the balancing that is the essential role of the Commission is not necessary in the particular circumstances of the University's electric utility operation, and therefore it is not necessary or appropriate in the public interest to require the University to file tariffs for review and approval by the Commission.²

² Exhibit 12.01, U of A IR Responses, page 2.

30. The U of A explained that the operation of its electric distribution system is pursuant to an agreement with the Province which transferred its management, ownership and interest to the University and imposed certain obligations on the University for the benefit of its customers. The University stated that, pursuant to the provisions of that agreement, it does not collect a return on capital. As a result, this unique arrangement takes the University out of the ambit of Part 9 of the *Electric Utilities Act*, which contemplates utility operations which recover a return of or return on capital.

31. The University also stated that no customer has submitted a complaint or raised concerns in relation to the rate structure since the University assumed control of the electric distribution system in 1974. The U of A explained that it does not consider its customers to be compelled to purchase electric energy from the University. The U of A has a policy in place where customers can opt out of service with five days of notice to the University. To date, no customers have elected to purchase their electric energy from a third-party retailer.

32. In its application, the University indicated that it conducted consultation with the Province's Departments of Energy and Post-Secondary Education, as well as its customers in regard to this application. No concerns were received.

33. The Commission appreciates the longstanding relationship between the University and EPCOR, and their respective predecessors, in relation to the service area in question. The Commission observes that the service area has been in operation prior to the enactment of the *Hydro and Electric Energy Act* and by way of private agreement between the respective parties. The operation of the electric distribution system within EPCOR's service area has been in place for a number of years and both parties are in agreement to continue the present arrangement.

34. The Commission agrees that the University's rate structure is distinctive. The Commission observes that the University only charges its users the actual cost of supply and delivery and does not collect a return of any kind. The University indicated that it has a fair and transparent process for the setting of its rates by its Utilities Department, as delegated by the Board of Governors. Furthermore, the University indicated that it is almost entirely a publicly funded, non-profit organization. As such, the Commission recognizes that the costs associated with a tariff application filing would fall upon the University and its customers. Based on the unique relationship between EPCOR and the University, and the distinctive rate structure in place, the Commission agrees that requiring the University to file a tariff application is not in the public interest in this particular instance. Furthermore, the Commission finds that the electric distribution system has been in place for over 40 years, and both parties are in agreement to renew the present arrangement.

35. With respect to the University's duties under the *Electric Utilities Act* and its regulations, the University has assured the Commission that it will continue to carry out all of its remaining obligations under the *Electric Utilities Act*. The Commission notes that EPCOR will continue to perform the University's load settlement functions and the University will continue to address any customer complaints. Based on these assurances, the Commission finds that all obligations under the *Electric Utilities Act* in relation to the service area will be met and no negative customer impacts are anticipated.

36. The Commission also accepts the University's commitment that it will not expand the boundary of its current electric distribution system beyond the service area outlined in this application.

37. The Commission notes EPCOR's request that various terms and conditions of service be included in the Commission's approval. The Commission finds that such conditions are more appropriately incorporated into the agreement between the University and EPCOR.

38. For the foregoing reasons, the Commission finds that approving the application would be in the public interest.

6 Decision

39. Pursuant to sections 18 and 28 of the *Hydro and Electric Energy Act*, the Commission approves Application No. 1608052 for the operation of an electric distribution system and grants to the University of Alberta the electric distribution system approval as set out in Appendix 1 – Approval No. U2012-715 and a connection order as set out in Appendix 2 – Connection Order No. U2012-716 allowing the University to connect its electric distribution system to that of EPCOR. (Appendices 1 and 2 to this decision will be distributed separately).

40. Pursuant to Section 117(1)(a) of the *Electric Utilities Act*, the Commission grants the University the requested exemption from filing a distribution tariff application.

Dated on December 21, 2012.

The Alberta Utilities Commission

(original signed by)

Tudor Beattie, QC
Commission Member