

March 11, 2020

To: Parties currently registered on Proceeding 25206

**ENMAX Power Corporation  
No. 1 Substation Replacement Project  
Proceeding 25206  
Applications 25206-A001 to 25206-A008**

**Ruling on standing**

1. In this ruling, the Alberta Utilities Commission decides whether to hold a public hearing to consider applications by ENMAX Power Corporation (ENMAX or EPC) relating to the rebuilding of a substation in downtown Calgary.
2. The Commission must hold a hearing if persons who have filed a statement of intent to participate (SIP) in Proceeding 25206 have demonstrated that they have rights that may be directly and adversely affected by the Commission's decision. Such a person may participate fully in the hearing, including giving evidence, questioning of witnesses and providing argument. This permission to participate is referred to as standing.
3. The Commission issued a notice of applications for Proceeding 25206 on January 14, 2020. The Commission received SIPs from Brenda McManus, on behalf of QuadReal Property Group and bcIMC Realty Corporation (QuadReal), the Consumers' Coalition of Alberta (CCA) and the Office of the Utilities Consumer Advocate (UCA). In a February 12, 2020 letter, EPC provided comments on the SIPs filed by the three parties.<sup>1</sup>
4. The Commission has authorized me to communicate its decision on standing.

**Statements of intent to participate**

*QuadReal Property Group and bcIMC Realty Corporation*

5. QuadReal explained that it owns the building directly behind the existing ENMAX No. 1 Substation site and that the alley between the two properties includes a utility right of way. QuadReal expressed concerns about the project's effect on parking and on access to its building.
6. EPC accepted QuadReal's legally recognized rights and suggested that QuadReal meets the test for standing.

*Office of the Utilities Consumer Advocate*

7. The UCA stated that it intends to test the merits, timing and forecast costs of the project as well as alternatives to the project. The UCA requested to file evidence on these issues in

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<sup>1</sup> Exhibit 25206-X0043, 2020-02-12-EPC Letter to AUC re Sub 1 Standing and Process.

Proceeding 23966;<sup>2</sup> however, in that proceeding, the Commission ruled that it would be most appropriate and efficient for the UCA to pursue these issues in the facility application. That ruling was also filed in this proceeding as Exhibit 25206-X0036.

8. EPC submitted that ratepayer groups cannot meet the test for standing in a facilities application but acknowledged that in these specific circumstances, if the UCA were to be granted standing, it only should be given standing to test the relative merits, including the cost, of EPC's substation replacement proposal versus rebuilding the substation on the existing site.

*Consumers' Coalition of Alberta*

9. The CCA stated that the focus of its intended intervention is the effect of the proposed applications on utility rates.

10. EPC objected to the CCA's request for standing, stating that the participation of the CCA would be inefficient and unnecessarily duplicative. EPC submitted that the CCA should be given an opportunity to file argument and reply, but should not be permitted to file evidence or information requests. EPC further stated that, should the Commission grant standing to the CCA and allow full participatory rights, the CCA's submissions should be limited to the same rate-related matters that EPC suggested for the UCA.

11. The Commission issued a letter allowing the CCA to respond to EPC and requested that the CCA describe how the consumers and the interests the CCA represents differ from those represented by the UCA.<sup>3</sup> The CCA submitted that, to the extent that there is overlap in interests between the CCA and the UCA, the CCA would work with the UCA to ensure that there would not be a duplication of effort in the pursuit of those interests.<sup>4</sup> In addition, the CCA understood that the UCA did not intend to retain engineering expertise in the areas that the CCA intended to address. The CCA provided a list of preliminary concerns that it understood to be distinct from those raised by the UCA and submitted that, if it were not granted standing to participate fully in the proceeding, that list of concerns may not be addressed. The CCA noted that the UCA was in general agreement with the CCA's submission.

12. The CCA objected to EPC's request to limit the scope of the CCA's participation and requested that it be granted standing in the proceeding. The CCA acknowledged that it would normally address its concerns in a NID<sup>5</sup> application, but explained that because there is no NID application in this case, the facility proceeding is the only place for it to state its concerns.

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<sup>2</sup> Proceeding 23966, EPC 2018-2020 Transmission General Tariff Application.

<sup>3</sup> Exhibit 25206-X0046, AUC letter - CCA request to respond to ENMAX.

<sup>4</sup> Exhibit 25206-X0047, CCA Letter re AUC Feb 19 Process Letter – 25206.

<sup>5</sup> NID refers to a Needs Identification Document which is a document filed by the Alberta Electric System Operator (AESO) with the Commission to define the need to reinforce the transmission system to meet load growth and/or provide non-discriminatory access to interconnect new loads and generators to the system.

## Ruling

13. The Commission finds that QuadReal has demonstrated that it has legal (property) rights that may be directly and adversely affected by the Commission's decision on the application, and grants QuadReal standing in the proceeding.

14. QuadReal falls within the definition of "local intervener" in Section 22 of the *Alberta Utilities Commission Act* and, therefore, it is eligible to file a costs claim seeking recovery of the costs of its participation in this proceeding, in accordance with the Commission's Rule 009: *Rules on Local Intervener Costs*.

15. Section 3 of Schedule 13.1 of the *Government Organization Act* states:

3 The Office of the Utilities Consumer Advocate has the following responsibilities:

- (a) to represent the interests of Alberta residential, farm and small business consumers of electricity and natural gas before proceedings of the Alberta Utilities Commission and other bodies whose decisions may affect the interests of those consumers;

16. The Commission considers that its decision on EPC's application may affect the consumers represented by the UCA and finds that the UCA has a legislated mandate to pursue the issues identified in its SIP. Accordingly, the Commission grants the UCA full participation rights in the proceeding.

17. The CCA asserted that it should be accorded standing based on the project's potential rate impacts and notes that, but for the unique circumstances in this case (i.e., this is a replacement project not a system project), it would have addressed its concerns regarding the project in a proceeding resulting from a NID application from the Alberta Electric System Operator. In the Commission's view, the CCA has provided insufficient information to substantiate its request for standing. However, in these unique circumstances, and having regard to the Commission's decision to consider the merits, timing and costs of EPC's proposal for the Substation No. 1 project, and any alternatives to the project, in the facilities proceeding,<sup>6</sup> the Commission grants to the CCA full participation rights.

18. The Commission remains concerned about the potential for overlap and duplication between the UCA and the CCA and notes that the CCA will endeavour to work with the UCA to minimize any such duplication.

19. The Commission emphasizes that it is granting participation rights to the UCA and the CCA in the following specific circumstances of this proceeding: (a) the concerns of the UCA and the CCA are unlikely to be addressed elsewhere; (b) the unique nature and high capital value of

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<sup>6</sup> Exhibit 25206-X0036, AUC letter - Ruling on UCA evidence on the Substation No. 1 replacement vs rebuild option, January 31, 2020.

the proposed project; and (c) the inability for ratepayers concerns to be addressed through a NID application.

20. EPC requested that in the event the UCA or the CCA is granted standing, the Commission limit the scope of their participation to testing the alternatives for the substation replacement and the costs associated with those alternatives. As indicated in its clarification letter to EPC,<sup>7</sup> as is typical in facilities proceedings, the Commission will, in the current facilities proceeding, consider cost information in its assessment of potential alternatives as part of its public interest determination, but will not approve forecast costs for ratemaking purposes. Accordingly, the scope of the facilities proceeding will be limited to the testing of the merits, timing and costs of EPC's proposal for the Substation No. 1 project, and any alternatives to the project to determine whether the project is in the public interest and to maintain an efficient proceeding.

21. The Commission emphasizes that eligibility to claim costs does not guarantee full recovery of those costs. Any claims for costs must be filed after this proceeding is concluded, in accordance with Rule 009 or Rule 022: *Rules on Costs in Utility Rate Proceedings*, and cost recovery is subject to the Commission assessing the value of a party's contribution to the proceeding.

### **Process schedule**

22. As outlined in Bulletin 2019-18, the Commission will hold a preliminary technical conference to reduce regulatory burden and further define the scope of the facilities proceeding. The Commission requests that parties provide comments by March 16, 2020, on potential scheduling for such a technical conference as well as a list of topics they would like to discuss.

23. EPC indicated that it intended to file supplemental evidence if the scope of the facilities proceeding changed. In response to EPC's request, the Commission issued a letter clarifying what matters would be addressed in the rates proceeding and what matters would be addressed in the facilities proceeding.<sup>8</sup> The relevant evidence from Proceeding 23966 that parties want to be re-filed on the record of the facilities proceeding will be discussed at the technical conference.

24. The Commission will also consider the proceeding process steps and schedule at the technical conference. A notice of hearing with the finalized process schedule will be issued following the consideration of the technical conference.

25. Should you have any questions, please contact the undersigned at 403-592-4360 or by email at [rob.watson@auc.ab.ca](mailto:rob.watson@auc.ab.ca).

Yours truly,

Rob Watson  
Commission Counsel

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<sup>7</sup> Exhibit 25206-X0048, AUC letter - Clarification letter to ENMAX Power Corporation.

<sup>8</sup> Exhibit 25206-X0048, AUC letter - Clarification letter to ENMAX Power Corporation.