



**ENMAX Power Corporation and
ENMAX Energy Corporation**

**Amendments to the *Code of Conduct Regulation*
Compliance Plan**

April 29, 2022

Alberta Utilities Commission

Decision 27110-D01-2022

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ENMAX Energy Corporation

Amendments to the *Code of Conduct Regulation*

Compliance Plan

Proceeding 27110

Application 27110-A001

April 29, 2022

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1 Decision summary

1. In this decision, the Alberta Utilities Commission has approved the application of ENMAX Power Corporation and ENMAX Energy Corporation (collectively ENMAX) to amend their *Code of Conduct Regulation* Compliance Plan (Compliance Plan). The application was brought under subsection 32(2) of the *Code of Conduct Regulation* and the Commission's authority to consider proposed changes to a compliance plan.
2. ENMAX sought two amendments to its compliance plan:
 - (a) Changes to incorporate the requirement to retain records for the purposes of a Commission audit as set out in Section 40 of the *Code of Conduct Regulation*; and
 - (b) Changes to how it will provide its customers information regarding the complaint process for contraventions of the *Code of Conduct Regulation*.
3. Notice of the application was issued on January 25, 2022. No requests to participate were received. Accordingly, the Commission closed the record of the proceeding on February 8, 2022.

2 Amendments to the *Code of Conduction Regulation* Compliance Plan

2.1 The repeal of Rule 030: *Compliance with the Code of Conduct Regulation* requires changes to the audit provisions in the Compliance Plan

4. On March 31, 2021, the Commission issued Bulletin 2021-06: *Repeal of Rule 030: Compliance with the Code of Conduction Regulation*. Rule 030 was repealed as of April 1, 2021, to comply with amendments to the *Code of Conduct Regulation*. Included within those amendments was the removal of Section 28 which required parties under the regulation to maintain records.
5. Notwithstanding the amendment of the regulation and subsequent repeal of Rule 030, the Commission determined that it would need parties to retain certain records in order for the Commission to effectively carry out its compliance audits of the parties. Consequently, the Commission issued a letter introducing specific provisions to the *Code of Conduct Regulation* compliance plans and obligating parties to retain records for the purposes of those audits (Direction Letter).¹ In particular, the Commission required the addition of the following text in

¹ This letter was filed on July 12, 2021, in Proceeding 26295, as a post-disposition document.

Part 4 Compliance Requirements under Division 3 Compliance Audit, to the Code of Conduct Regulation compliance plans after the policy statement in Section 40.0 “Audit:”

[utility] will retain all code of conduct compliance records listed under Appendix A to the Compliance Plan for at least three years. The Commission may amend Appendix A from time to time on notice and absent a registered objection, the proposed changes to the appendix will take effect within 10 business days from the date of the notice.

6. The records to be listed in Appendix A to the *Code of Conduct Regulation* Compliance Plan were included in the Commission’s Direction Letter but were subject to any proposal the parties might have to vary that list.

7. ENMAX proposed amendments to the following sections of its compliance plan in response to the Commission’s Direction Letter:

- (a) Section 3.0 – Conduct covering the retention of records pertaining to ENMAX’s compliance training program, employee and contractor records including on-boarding and off-boarding records, employee transfers, and IT security reports;
- (b) Section 5.0 – Transfer of Customers covering the retention of customer enrollment records;
- (c) Section 7.0 – Advertising covering retention of promotional materials;
- (d) Section 9.0 – Confidentiality of Customer Information and Section 10.0 – Disclosure of Customer Information covering retention of records pertaining to customer consent to disclose information;
- (e) Section 22.0 – Financial Transactions covering retention of audited financial statements including the audit report;
- (f) Section 23.0 – Entities Carrying on More Than One Business covering the retention of records pertaining to cost allocation and transactions between regulated and unregulated business units, divisions, or affiliated entities; and
- (g) Section 33.0 – Annual Compliance Reports covering the retention of internal reporting documents including compliance assessments.

8. Further, it proposed deletions to Section 40.0 of the compliance plan to reflect redundant and contrary policies and mechanisms arising from its proposed changes.

9. The Commission finds that the amendments to the *Code of Conduct Regulation* Compliance Plan filed by ENMAX on January 20, 2022, meet the requirements detailed in the Commission’s July 12, 2021 letter. However, the Commission notes that ENMAX has proposed to incorporate the types of records to be retained and the minimum period in which those records should be kept under the applicable sections rather than list them in an appendix to the compliance plan as contemplated by the Commission in its Direction Letter.

10. The Commission considers that the use of an appendix is preferable to incorporating changes to various sections as ENMAX has proposed to do. This is because using an appendix

simplifies any future updates to these requirements and ensures consistency across the compliance plans of the various parties subject to the *Code of Conduct Regulation*. Consequently, rather than incorporating the changes to the sections summarized in paragraph 7 above, the Commission directs ENMAX to incorporate the following changes to its *Code of Conduct Regulation* Compliance Plan:

- (a) Under Section 40 – Compliance Audit, Policy: ENMAX will retain all code of conduct compliance records listed under Appendix A for at least three years.
- (b) The Commission may amend Appendix A to the Compliance Plan from time to time on notice and absent a registered objection, the proposed changes to the appendix will take effect within 10 business days from the date of the notice.
- (c) Appendix A – List of code of conduct compliance records
 - a. Internal reporting documents including internal compliance assessment, Compliance Committee / Board minutes, compliance reports to Board
 - b. Training materials
 - c. Record of training
 - d. Compliance acknowledgements
 - e. On-boarding / off-boarding processes and documentation
 - f. Record of employee transfers
 - g. Employee / contractor listing
 - h. Customer consent to disclose information
 - i. Customer enrollment records
 - j. Promotional materials
 - k. IT security reports including system access rights reports or system change reports where applicable
 - l. Agreements and contracts
 - m. Record of cost allocation and transactions between regulated and unregulated business units, divisions, or affiliated entities
 - n. Audited financial statements including annual financial statement audit reports

2.2 Changes to the complaint provisions will provide clarity to customers

11. ENMAX proposed the removal of certain mechanisms under Section 34.0 – Information About Complaints. Under this section, ENMAX Energy is required to include a notice on its utility bills that states complaints regarding alleged contraventions of the

Code of Conduct Regulation may be made to the Commission or to the Market Surveillance Administrator.

12. The inclusion of this notice in the utility bill has resulted in customers contacting the Commission about their utility bills rather than the issues concerning compliance with the regulation. ENMAX has proposed that this provision found at Section 34.2 of the *Code of Conduct Regulation* Compliance Plan be removed and that the information be posted on its website.

13. The Commission finds that providing information about how to report an alleged contravention of the *Code of Conduct Regulation* on the ENMAX external website and to remove the requirement to include this information through an annual notice on customer bills is a reasonable amendment and that doing so will provide clarity to customers regarding this matter. Accordingly, the proposed change is approved.

3 Order

14. Pursuant to subsection 32(3) of the *Code of Conduct Regulation*, the Commission orders that:

- (1) The proposed changes to the ENMAX Power Corporation and ENMAX Energy Corporation *Code of Conduct Regulation* Compliance Plan are approved subject to the changes directed in paragraph 10 of this decision.
- (2) The amended *Code of Conduct Regulation* Compliance Plan is effective as of April 29, 2022.

Dated on April 29, 2022.

Alberta Utilities Commission

(original signed by)

Neil Jamieson
Commission Member