



**ENMAX Energy Corporation**

**2022-2024 Non-Energy Regulated Rate Option Tariff  
Negotiated Settlement Agreement**

**May 26, 2023**

**Alberta Utilities Commission**

Decision 27714-D02-2023

ENMAX Energy Corporation

2022-2024 Non-Energy Regulated Rate Option Tariff Negotiated Settlement Agreement

Proceeding 27714

May 26, 2023

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The Commission may, no later than 60 days from the date of this decision and without notice, correct typographical, spelling and calculation errors and other similar types of errors and post the corrected decision on its website.

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## **1 Decision summary**

1. This decision provides the Alberta Utilities Commission's determinations regarding ENMAX Energy Corporation's (EEC) application for approval of a Negotiated Settlement Agreement (NSA) with respect to its 2022-2024 non-energy regulated rate option (RRO) tariff application.

2. The Commission finds that the NSA between EEC and interveners was negotiated under a fair process, is in the public interest and results in just and reasonable rates. Therefore, the Commission approves the NSA as filed.

## **2 Introduction and background**

3. EEC is an RRO service provider that serves eligible residential and commercial customers in Alberta. EEC recovers non-energy costs associated with providing RRO services through a daily administration charge.

4. On November 18, 2022, EEC filed an application with the Commission, requesting approval of its 2022-2024 RRO non-energy tariff application in accordance with Section 103 of the *Electric Utilities Act* and the *Regulated Rate Option Regulation*. EEC applied to collect the revenue requirement set out in its application through an administration charge, on a dollars per site per day basis.

5. The Commission issued a notice of application on November 21, 2022, and received statements of intent to participate from the Consumers' Coalition of Alberta (CCA) and the Office of the Utilities Consumer Advocate (UCA).

6. EEC included a 2023 interim rate request within its application. The Commission addressed this request in an earlier decision where it approved, in part, the requested interim administration charge on an interim refundable basis.<sup>1</sup>

7. The balance of the application was examined through information requests (IRs) and intervener evidence, leading up to a negotiated settlement process (NSP).

8. Settlement negotiations commenced on February 28, 2023, and concluded four weeks later. EEC advised the Commission that a unanimous settlement agreement had been reached, and on March 29, 2023, EEC filed the NSA including materials in support of the NSA. The materials filed by EEC include a settlement application and eight appendixes. The first appendix

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<sup>1</sup> Decision 27714-D01-2022: ENMAX Energy Corporation, 2023 Non-Energy Regulated Rate Option Interim Tariff, Proceeding 27714, December 22, 2022.

is the NSA itself, and the remaining appendixes are documents intended to substantiate the fairness of the NSA process and to assist the Commission in understanding how rates were derived in the NSA.<sup>2</sup>

9. Following its review of the NSA, the Commission issued IRs to interveners and EEC. IR responses were received by April 18, 2023. The Commission found the responses to be adequate, but subsequently asked one additional IR to EEC regarding the implementation of the NSA. The Commission considers May 12, 2023, to be the close of record for this proceeding, as this is the date the final IR response was filed.

### 3 Negotiated settlement

#### 3.1 Requirements governing negotiated settlements

10. Section 6 of Rule 018: *Rules on Negotiated Settlements* under Section 132 of the *Electric Utilities Act*<sup>3</sup> sets out requirements for the contents of a negotiated settlement application, and places the onus on the applicant to provide sufficient evidence to support the application and to enable the Commission to understand and assess the agreement. Section 7 of Rule 018 includes requirements for the Commission's assessment of the agreement. The Commission structured the NSP in this proceeding in accordance with Rule 018.

11. The Commission has previously considered negotiated settlements in rate cases including where, as here, there has been unanimous agreement. The Commission has consistently indicated that the test requires consideration of three questions: (i) was the negotiation process fair, including with respect to notice and the conduct of the process itself; (ii) will the settlement result in just and reasonable rates; and (iii) are any of the settlement provisions, individually or collectively, patently against the public interest or contrary to law?<sup>4</sup> Performing this assessment requires the Commission review the individual provisions of the NSA and the NSA as a whole.

12. In considering these requirements, the Commission has taken into account the direction of the Alberta Court of Appeal as set out in *ATCO Electric Limited v Alberta (Energy and Utilities Board)*<sup>5</sup> (ATCO Electric decision). In that decision, the court found that the ultimate responsibility for approving negotiated settlements resides with what is now the AUC. The Commission proceeds on that basis herein, as it has in the past, with a view to ensuring that the NSA will result in just and reasonable rates, that none of the NSA provisions, individually or collectively, are patently against the public interest or contrary to law, and that the process used to arrive at the NSA was fair.

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<sup>2</sup> Exhibit 27714-X0168, 2023-04-18 EEC Responses to AUC Round 2 IRs (001-009), PDF pages 2-3.

<sup>3</sup> Section 132 of the *Electric Utilities Act* requires that the Commission recognize or establish rules, practices and procedures to facilitate the negotiated settlement of matters arising under the act.

<sup>4</sup> See, for example, Decision 21149-D01-2016 (Errata): ENMAX Power Corporation, Distribution 2015-2017 Performance-Based Regulation – Negotiated Settlement Application and Interim X Factor, Proceeding 21149, October 3, 2016, paragraph 29; Decision 25726-D01-2021: ENMAX Power Corporation, 2021-2022 General Tariff Application Negotiated Settlement Agreement and Excluded Matters, Proceeding 25726, June 16, 2021, paragraph 23; Decision 23966-D01-2020 (Corrigenda): ENMAX Power Corporation, 2018-2020 General Tariff Application Negotiated Settlement Agreement and Excluded Matters, Proceeding 23966, July 30, 2020 and Decision 26207-D01-2021: Direct Energy Regulated Services, 2020-2022 Default Rate Tariff and Regulated Rate Tariff – Negotiated Settlement Agreement, Proceeding 26207, June 4, 2021, paragraph 18.

<sup>5</sup> *ATCO Electric Limited v Alberta (Energy and Utilities Board)*, 2004 ABCA 215 [ATCO Electric decision].

13. In assessing a negotiated settlement, the Commission is aware that, while one or more of the interested parties to a settlement may represent certain stakeholders, none will represent all stakeholders. Further, as noted by the court at paragraph 138 of the ATCO Electric decision, "... even a broad range of Interveners will not necessarily translate into a wide spectrum of positions since parties may make trade-offs which leave other issues unresolved, unaddressed or compromised."<sup>6</sup> Consequently, the NSP and NSA do not replace a full and informed review by the Commission as to what is in the overall public interest. Because EEC agreed to an NSP, negotiated with parties representing ratepayers, executed the NSA, and applied to the Commission for approval of the NSA in its entirety, the Commission has proceeded on the basis that the NSA satisfies EEC's interests, and has only assessed the NSA from the point of view of ratepayers. This is consistent with the ATCO Electric decision.<sup>7</sup>

14. Given the statutory requirements, Rule 018 and the relevant case law, the Commission has considered all of the following factors in making its determination on whether the NSA should be accepted or rejected in its entirety:

- **Review of the NSP:**
  - Was the negotiated settlement process procedurally fair, both with respect to adequate notice having been served and with respect to the conduct of the negotiation process itself.
- **Review of the NSA:**
  - Does the settlement result in rates and terms and conditions that are just and reasonable?
  - Is the settlement patently against the public interest or contrary to law?

15. The Commission's findings on the NSP and on the provisions of the NSA are discussed below.

### 3.2 Fairness of the NSP

16. The first factor that Commission considers is whether the NSP that resulted in the NSA was fair.

17. Starting with the conduct of the negotiation process, EEC submitted that the settlement negotiations were conducted in a fair and open manner, with all parties given a reasonable opportunity to raise and discuss any matters or issues related to the non-energy application.<sup>8</sup> The CCA and the UCA also filed correspondence with the Commission attesting to the fair and open manner in which the negotiations were conducted.<sup>9</sup> The Commission notes that all participants in the negotiations were sophisticated parties, and considers that they represent a reasonable cross-section of ratepayers. The Commission is satisfied that parties had the opportunity to participate meaningfully, and that the negotiations were conducted in an open and fair manner.

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<sup>6</sup> ATCO Electric decision, paragraph 138.

<sup>7</sup> ATCO Electric decision, paragraph 146.

<sup>8</sup> Exhibit 27714-X0152, Appendix B – Fairness Submission of EEC.

<sup>9</sup> Exhibits 27714-X0161 and 27714-X0147.

18. Turning to the issue of adequate notice, Section 3 of Rule 018 deals with the provision of notice by a utility to parties who may be interested in participating in negotiations. Under Section 3, the Commission requires a statement in a settlement agreement confirming that proper notice was provided by the applicant to all interested parties. In this case, the NSA complies with that requirement and includes a statement confirming that proper notice of negotiations was provided to all interested parties by way of correspondence on the AUC's eFiling System.<sup>10</sup> The Commission finds that adequate notice was provided to interested parties.

19. Finally, Section 6(1) of Rule 018 provides that, when an agreement is reached on all or some of the issues, the text of the agreement, including a representation that no party has withheld relevant information, must be circulated to all parties to the agreement. EEC addressed this requirement under Article 3.2 of the NSA.<sup>11</sup> The Commission finds that the requirements of Section 6(1) of Rule 018 have been met with respect to relevant information.

20. In view of the above and having reviewed the entire NSP, the Commission is satisfied that the NSP was fair and that EEC has complied with the requirements set out in sections 3, 6(1) and 6(3) of Rule 018.

### **3.3 Review of the NSA**

21. The second factor the Commission must consider is whether the NSA is in the public interest, including whether it will result in just and reasonable rates, as required by Section 8(1) of Rule 018. The Commission is guided by the *Electric Utilities Act* and Rule 018, and in particular Section 8(2) of Rule 018, which states that the Commission must intervene if it determines that a unanimous settlement agreement is patently against the public interest or contrary to law.

22. In conducting the public interest assessment, the Commission has considered each individual element of the NSA and the NSA as a whole. As to what constitutes the public interest when assessing the attributes and merits of an NSA, the Commission followed the guidance provided by the Alberta Court of Appeal in the ATCO Electric decision discussed above. That is, it considered the public interest from the perspective of ratepayers. In arriving at its findings, the Commission reviewed each of the material provisions of the NSA to determine if any of these provisions appears to be unusual, contrary to accepted regulatory practices, or could result in undue rate effects, service concerns, preferences or other concerns in future rate applications. The Commission has also considered whether the effect of the NSA, taken as a whole, would lead to rates and terms and conditions of service that are just and reasonable.

23. The Commission has taken into account all information on the record, which gives the Commission a complete contextual basis upon which to conduct its public interest analysis.

#### **3.3.1 Contents of the NSA**

24. EEC submitted that the NSA results in fair and reasonable administration charges for 2022, 2023 and 2024, and that the settlement is not patently against the public interest or contrary to law.<sup>12</sup>

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<sup>10</sup> Exhibit 27714-X0151, Appendix A - Negotiated Settlement Agreement, Article 3.1.

<sup>11</sup> Exhibit 27714-X0151, Appendix A - Negotiated Settlement Agreement, Article 3.2.

<sup>12</sup> Exhibit 27714-X0150.01, Settlement Application, paragraph 49.

25. The adjustments to EEC's applied-for revenue requirement resulting from the NSA, including the adjustments made following ratification of the Canadian Union of Public Employees agreement, are reproduced in Table 1 below.

**Table 1. Adjustments to revenue requirement resulting from the NSA**

Description	Revenue requirement reduction (\$ million)			
	2022	2023	2024	Total
Applied-For Revenue Requirement	12.36	12.74	12.20	37.30
Reduction 1 – Communication Costs	(0.18)	(0.14)	(0.15)	(0.47)
Reduction 2 – Billing and Customer Care <sup>13</sup>	-	(0.47)	(0.81)	(1.28)
Reduction 3 – Salary Escalators	-	(0.01)	(0.02)	(0.03)
Adjustment 4 – Non-Salary Escalators	-	0.02	0.02	0.03
Reduction 5 – IT Cost Allocation Adjustment	-	(0.05)	(0.05)	(0.10)
Total Reduction	(0.18)	(0.66)	(1.00)	(1.84)
Settlement Revenue Requirement	12.18	12.08	11.19	35.45

26. In addition to the adjustments to the revenue requirement, other material aspects of the NSA are summarized below.<sup>14</sup>

**(a) Updated site count and forecast methodology**

27. The parties agreed to use the updated annual average RRO site counts for the residential and commercial rate classes using EEC's approved site forecast methodology, as set out in Exhibit 27714-X0088, for years 2023 and 2024 to calculate the revenue requirement and associated administration charges. This means that the parties agreed to reject EEC's annual update proposal for site counts, as set out in its initial application.<sup>15</sup> Further, EEC clarified it will use site counts agreed to in the NSA for any calculated rate changes associated with updated bad debt forecasts.<sup>16</sup>

**(b) Bad debt reporting requirements**

28. The parties agreed to use EEC's applied-for 36-month bad debt forecast revenue requirement and annual update proposal for bad debt for 2023 and 2024, with additional reporting requirements.<sup>17</sup> The NSA requires EEC to comply with additional reporting requirements if the updated bad debt forecast results in a variance above certain thresholds. Depending on the magnitude of the variance, EEC agreed to execute specific procedures outlined in the NSA, ranging from providing a variance explanation to filing an application before the Commission to have the updated bad debt tested through an abbreviated process.

**(c) Site count reporting requirements**

29. Parties agreed that EEC will provide a variance explanation for material competitive electric site count variances between Market Surveillance Administrator data and its internal data in EEC's next RRO non-energy application. EEC will also include a letter attesting that the

<sup>13</sup> Includes associated impacts to revenue offsets, working capital and rent.

<sup>14</sup> Summaries of the NSA provided in this decision are for ease of reference only, and are not intended to modify or revise the NSA in any regard. In the event of any discrepancy between the NSA and a summary or description of the NSA provided in this decision, the NSA prevails.

<sup>15</sup> Exhibit 27714-X0150.01, NSA application, paragraph 35.

<sup>16</sup> Exhibit 27714-X0168, EEC-AUC-2023APR11-006(c).

<sup>17</sup> Exhibit 27714-X0150.01, NSA application, paragraph 39.



competitive electric site count forecast is reasonable and is the same site count forecast employed by EEC's competitive business used to allocate the RRO's share of billing and customer care (B&CC) costs.<sup>18</sup>

**(d) B&CC reporting requirements**

30. Parties agreed that EEC will provide, as part of its next RRO non-energy application, information related to its B&CC costs, in a format similar to Exhibit 27714-X0104, and will include a minimum of two years of actual results and the forecast years in the applied-for test period.<sup>19</sup> In response to Commission IRs, EEC confirmed that Exhibit 27714-X0104 refers to Confidential Exhibit 27714-X0104-C.<sup>20</sup>

**3.3.2 Increase to administration charge on per site basis**

31. As noted above, the NSA achieved reductions to EEC's applied-for revenue requirement in communications, B&CC, salary escalators, non-salary escalators, and internet technology cost allocation adjustment cost categories. Notwithstanding these reductions, the Commission notes that the negotiated administration charge has increased in 2023 and 2024 relative to the originally applied-for rates. The Commission understands that this is a consequence of a decrease in site counts, as compared to what was initially forecast by EEC in the original applied-for rates.

32. The Commission has carefully scrutinized whether it is in the public interest to approve a settlement agreement that contemplates higher negotiated administration charges in 2023 and 2024, relative to the originally applied-for administration charges. Based on the information filed on the record of this proceeding, and for the reasons described below, the Commission finds the NSA administration charges for 2022 to 2024 to be just and reasonable, and in the public interest.

33. In its application, EEC explained that site counts are used for three purposes: (i) to calculate the percentage of sites that receive RRO service; (ii) to forecast the revenue offsets; and (iii) to calculate administration charges.<sup>21</sup> An administration charge, which EEC described in its simplest form to be the revenue required to provide service divided by the number of RRO sites being served,<sup>22</sup> is a rate that is inversely related to site count.

34. Before the NSP commenced, EEC updated its forecast site counts for 2023 and 2024 in response to an IR from the CCA.<sup>23</sup> As explained by EEC, during the course of negotiations, parties realized that actual 2022 site counts had declined more than EEC initially forecast, and the updated site forecast information for December 2022 indicated a continuing decline in site counts for 2023 and 2024.<sup>24</sup>

35. Although site count changes will also directly impact B&CC expenses, rent expenses, working capital, as well as revenue offsets,<sup>25</sup> EEC proposed that all except the bad debt portion

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<sup>18</sup> Exhibit 27714-X0150.01, NSA application, paragraph 44.

<sup>19</sup> Exhibit 27714-X0150.01, NSA application, paragraph 45.

<sup>20</sup> Exhibit 27714-X0168, EEC-AUC-2023APR11-007(a).

<sup>21</sup> Exhibit 27714-X0001, 2022-11-18-EEC-2022-2024 RRO Non-Energy Application, paragraph 62.

<sup>22</sup> Exhibit 27714-X0168, EEC-AUC-2023APR11-004(a).

<sup>23</sup> Exhibit 27714-X0088, EEC-CCA-2023JAN23-002(e) Attachment.

<sup>24</sup> Exhibit 27714-X0150.01, NSA application, paragraph 27.

<sup>25</sup> Exhibit 27714-X0070, EEC-AUC-2023JAN23-006(a).

of the revenue requirement be approved on a final basis.<sup>26</sup> Parties to the NSA agreed that the bad debt portion of the revenue requirement could be updated annually for 2023 and 2024.

36. EEC submitted that the NSA reflects EEC's forecast costs, with material reductions, and also takes into account expected reduced site counts. EEC added that a decrease in site counts does not lead to a directly proportional decrease in costs because the number of RRO sites are declining at a faster rate than their costs.<sup>27</sup> EEC provided analysis<sup>28</sup> to substantiate that the rate of increase or decrease to revenue requirement is not directly proportional to the rate of increase or decrease to site counts.

37. The Commission understands that the practice of updating forecasts to use the most recent actuals available is consistent with its practice in previous proceedings, and reflects an interest in relying on the best available information when setting rates. The Commission is satisfied with the parties' explanation of the decision to use updated actuals. Accordingly, the Commission finds the use of updated site counts in 2022 to forecast site counts in 2023 and 2024 to be acceptable, notwithstanding the fact that it has the effect of increasing the administration charge relative to what was initially applied for.

38. In support of the outcome of the NSA, the UCA submitted that the concessions made by EEC during negotiations substantially offset the impact of the reduced site count forecasts and provided improved rate stability for customers. The CCA indicated it was comfortable with the negotiated revenue reductions and did not believe that additional reductions could be secured through the regulatory process had the NSP been terminated in favour of traditional tariff adjudication. The CCA indicated that the administration charge increase, relative to what was initially applied for, is the best that could be obtained given the unprecedented decrease in sites.<sup>29</sup>

39. The Commission is satisfied that the NSA represents a unanimous agreement reached as a result of a successful negotiation process. Such negotiations and the resulting NSA typically reflect a number of compromises of different interests and positions of the parties. In this case, the intervening parties who signed the NSA are well positioned to advance the interests of ratepayers, having historically participated in the testing of EEC's applications. These intervening parties have expressed satisfaction with the NSA notwithstanding the increase in administration charge, relative to the initial application. Additionally, the parties have provided a satisfactory explanation for the increased administration charge, which includes the factual reality of an ongoing decrease in site counts. In light of this explanation, there is nothing before the Commission to suggest that the increased administration charge is not just and reasonable, or is patently against the public interest or contrary to law such that the Commission should intervene.

### 3.3.3 Conclusion on the NSA

40. Having reviewed the individual provisions of the NSA and considered the NSA as a whole as described above, along with the detailed analysis of the application and IR responses, the Commission finds that the NSA, taken as a whole, is not patently against the public interest or contrary to law, and finds that the NSA results in rates and terms and conditions that are just

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<sup>26</sup> Exhibit 27714-X0001, application, paragraph 88 and Table 13.

<sup>27</sup> Exhibit 27714-X0168, EEC-AUC-2023APR11-004(a).

<sup>28</sup> Exhibit 27714-X0072, EEC-AUC-2023JAN23-006(b) Attachment.

<sup>29</sup> Exhibit 27714-X0166, AUC-CCA-2023MRR31-001(c).

and reasonable, as required by Section 8 of Rule 018. Accordingly, the Commission approves the NSA as filed, and attached as [Appendix 3](#) to this decision. Additionally, the Commission approves the terms and conditions as filed, and attached as [Appendix 4](#) to this decision.

### **3.4 Implementation of the NSA**

41. In its initial application, EEC provided rate rider calculations to true up differences between its actual and approved amounts to account for variances for its 2020 non-energy COVID-19 deferral account and 2017-2020 RRO non-energy tariff riders. EEC proposed to collect a balance from customers either through a one-month or a three-month daily RRO rider rate starting April 1, 2023.

42. The NSA did not initially include any provisions regarding the proposed RRO rider, despite the fact that the April 1, 2023, date had lapsed at the time the NSA was executed. In response to an IR from the Commission, EEC confirmed that the parties to the NSA agreed that the Commission should approve a one-month RRO rider, with an implementation date of the first day of the month following approval of the NSA. EEC confirmed that it would exclude any carrying costs associated with the updated implementation date, and provide updated RRO rider true-up calculations and associated bill impacts. The RRO rider will result in an incremental charge of \$0.0222 per site per day for residential customers and \$0.0268 per site per day for commercial customers, for the one month period beginning on June 1, 2023.

43. The parties to the NSA agreed that the Commission providing an updated implementation date for the RRO rider would still fundamentally result in the Commission having accepted all the provisions of the NSA as contemplated under Section 8.1.1 of the NSA. The Commission agrees and therefore approves the RRO rider, as part of its overall approval of the NSA, with an implementation date of June 1, 2023.

44. Accordingly, the Commission directs EEC to file its amended RRO tariff rate schedules for 2023 and 2024 as post-disposition documents to this proceeding by May 31, 2023.

45. Further, the Commission directs EEC to file a separate application for approval of the true-up of interim to approved rates from January 1, 2022, to May 31, 2023.

## **4 Order**

46. It is hereby ordered that:

- (1) In accordance with the findings and directions in this decision, the Negotiated Settlement Agreement, attached as Appendix 3, is approved as filed.

Dated on May 26, 2023.

**Alberta Utilities Commission**

*(original signed by)*

Carolyn Dahl Rees  
Chair

*(original signed by)*

Vincent Kostas  
Acting Commission Member

## Appendix 1 – Proceeding participants

<b>Name of organization (abbreviation) Company name of counsel or representative</b>
ENMAX Energy Corporation (ENMAX or EEC) Regulatory Law Chambers
Consumers' Coalition of Alberta (CCA)
Office of the Utilities Consumer Advocate Reynolds, Mirth, Richards & Farmer LLP

Alberta Utilities Commission
Commission panel C. Dahl Rees, Chair V. Kostaskey, Acting Commission Member
Commission staff M. Anderson (Commission counsel) E. Chu D. Mitchell

## Appendix 2 – Summary of Commission directions

This section is provided for the convenience of readers. In the event of any difference between the directions in this section and those in the main body of the decision, the wording in the main body of the decision shall prevail.

1. Accordingly, the Commission directs EEC to file its amended RRO tariff rate schedules for 2023 and 2024 as post-disposition documents to this proceeding by May 31, 2023 ..... paragraph 44
2. Further, the Commission directs EEC to file a separate application for approval of the true-up of interim to approved rates from January 1, 2022, to May 31, 2023..... paragraph 45

## Appendix 3 – Negotiated Settlement Agreement

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Appendix 3 -  
Negotiated Settlement Agreement  
(consists of 14 pages)

## Appendix 4 – Terms and Conditions of Service

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Appendix 4 - Terms  
and Conditions of S

(consists of 25 pages)



## NEGOTIATED SETTLEMENT AGREEMENT

### ENMAX Energy Corporation

### 2022-2024 Regulated Rate Option Non-Energy Application

### Proceeding 27714

This Agreement for the negotiated settlement of the ENMAX Energy Corporation's 2022-2024 Regulated Rate Option Non-Energy Tariff Application is made and entered effective March 21, 2023.

Between:

ENMAX ENERGY CORPORATION, a corporation  
incorporated under the laws of Alberta

and

CONSUMERS' COALITION OF ALBERTA

and

OFFICE OF THE UTILITIES CONSUMER ADVOCATE,  
established by Schedule 13.1 of the *Government  
Organization Act*, RSA 2000, Chapter G-10

### WHEREAS:

The Parties endeavoured to reach an agreement considering the challenging circumstances that the number of customers are anticipated to decline throughout the Test Period while the costs collected under the revenue requirement are forecast in the Test Period to remain relatively unchanged. In coming to an agreement, the Parties also considered that actual costs in 2022 had come in significantly higher than originally applied-for, while actual 2022 site counts had declined more than EEC initially forecast and the updated site forecast information for December 2022 indicated a continuing decline in site counts for 2023 and 2024;

### AND WHEREAS:

The Parties reached a compromise by agreeing to reductions in the revenue requirement cost items to reduce the impact of the overall revenue requirement costs being allocated to a smaller number of customers;

### AND WHEREAS:

- (a) EEC provides regulated rate option electricity services to eligible customers within ENMAX Power Corporation's service area;
- (b) the AUC regulates EEC's RRT;
- (c) EEC is currently operating under the interim, refundable, rates approved by the AUC in Decision 27714-D01-2022;

- (d) on November 18, 2022, EEC filed an application with the AUC for approval of its 2022-2024 RRT (Ex. 27714-X0001 together with appendices);
- (e) on November 21, 2022, the AUC issued a Notice of Application informing parties it would be considering EEC's 2022-2024 RRT (Ex. 27714-0024);
- (f) on November 21, 2022, and January 12, 2023, the CCA and UCA respectively, filed statements of intent to participate in Proceeding 27714 (Ex. 27714-X0023, see also: Ex. 27714-X0027);
- (g) on December 22, 2022, the AUC recorded that the Parties were amenable to pursue a negotiated settlement process and issued an initial process schedule that set out February 28, 2023 through March 21, 2023 for negotiations (Ex. 27714-X0038);
- (h) on December 22, 2022, the AUC established an issues list for Proceeding 27714 (Ex. 27714-X0038);
- (i) on February 6, 2023 EEC responded to IRs from the AUC, CCA and UCA (Ex. 27714-X0070; Ex. 27714-X0084; Ex. 27714-X0093 together with attachments);
- (j) on December 12, 2022, February 24, 2023, March 20, 2023, and March 24, 2023, the AUC ruled on various motions regarding EEC's request for a confidentiality order, the CCA's request for a B&CC model (Ex. 27714-X0111) and the application of the AUC's Confidentiality Ruling (Ex. 27714-X0026) to various exhibits filed on the public and confidential record of Proceeding 27714 (Ex. 27714-X0145 and Ex. 27714-X0146);
- (k) on February 27, 2023, the CCA and UCA filed intervener evidence (Ex. 27714-X0114-C and Ex. 27714-X0113-C);
- (l) on March 14, 2023, the CCA and UCA responded to IRs from the AUC and EEC (Ex. 27714-X0138, Ex. 27714-X0140 together with attachments, Ex. 27714-X0137 together with attachments, Ex. 27714-X0141, Ex. 27714-X0142 together with attachments);
- (m) on March 8, 15, 20, and 21, 2023 the Parties met electronically with the objective of negotiating a settlement of the 2022-2024 RRT Application; and
- (n) on March 21, 2023, the Parties reached a negotiated settlement with respect to the 2022-2024 RRT Application, reflecting an informed and considered compromise of the issues and positions advanced by the Parties during Proceeding 27714, including the negotiations.

**IN CONSIDERATION** of the mutual promises made in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged by each of the Parties, and subject to the conditions set out below, the Parties agree as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Defined Terms

As used in this Agreement, the following capitalized terms have the meaning set out below:

- (a) “Agreement” means this Negotiated Settlement Agreement;
- (b) “AUC” means the Alberta Utilities Commission;
- (c) “B&CC” means Billing and Customer Care;
- (d) “Business Day” means any day other than a Saturday, Sunday or a statutory holiday in the Province of Alberta;
- (e) “CCA” means the Consumers’ Coalition of Alberta;
- (f) “CUPE” means Canadian Union of Public Employees;
- (g) “EEC” means ENMAX Energy Corporation;
- (h) “EUA” means the *Electric Utilities Act*, S.A. 2003, c. E-5.1;
- (i) “2022-2024 RRT Application” means the 2022-2024 Regulated Rate Option Non-Energy Tariff Application filed by EEC with the AUC for approval in Proceeding 27714;
- (j) “IR” means an information request made in accordance with section 24 of AUC Rule 001;
- (k) “Party” means each of EEC, the CCA and the UCA and “Parties” means all of them;
- (l) “RRT” means Regulated Rate Tariff;
- (m) “RRO” means Regulated Rate Option;
- (n) “Test Period” means January 1, 2022, to December 31, 2024; and
- (o) “UCA” means the Office of the Utilities Consumer Advocate.

### 1.2 Other Defined Terms

Capitalized terms not otherwise defined in this Agreement have the meaning given to them in the 2022-2024 RRT Application.

### 1.3 Gender and Number

Any reference in this Agreement to gender includes all genders and words denoting the singular shall include the plural and *vice versa*.

#### **1.4 Headings**

The division of this Agreement into articles and sections and the insertion of headings are for convenience only and shall not affect the interpretation or construction of this Agreement.

#### **1.5 Including**

In this Agreement, the words “includes,” “including” and similar expressions mean “includes” (or “including”) without limitation.

#### **1.6 Accounting Matters**

Unless otherwise noted in this Agreement, all items of revenue, expense, cost, gain, loss, liability, all determinations with respect to accruals, and all accounting matters or terms in this Agreement will be determined or construed in accordance with the relevant requirements or practices of the AUC.

#### **1.7 Legal Representation; No Presumption Against any Party**

Each Party acknowledges that it has been represented by counsel in connection with the negotiation and execution of this Agreement, and that the terms of this Agreement have been negotiated by it. Any rule of law or any legal principle that would require the interpretation of any claimed ambiguities in this Agreement against the Party that drafted it has no application, and the right to rely upon any such rule or principle is expressly waived by the Parties.

#### **1.8 References to Statutes and Regulations**

Any reference to a statute, regulation or AUC rule is a reference to it as re-enacted, varied, amended, modified, supplemented or replaced from time to time.

#### **1.9 Entire Agreement**

This Agreement sets out the entire understanding and agreement of the Parties, and there are no representations, warranties, covenants, conditions or other agreements, express or implied, collateral, statutory or otherwise, among the Parties in connection with the subject matter of this Agreement except as specifically set out in this Agreement. No Party has relied or is relying on any other information, discussion or understanding in entering into this Agreement.

#### **1.10 Successors and Assigns**

This Agreement becomes effective only when executed by all of the Parties and then approved by the AUC. This Agreement will then be binding on and enure to the benefit of the Parties and their respective successors. No Party may assign this Agreement without the prior written consent of the other Parties, provided that such consent will not be unreasonably withheld.

## 1.11 Amendments

This Agreement may be modified, altered or amended only by an agreement in writing, signed by the Parties and approved by the AUC.

## 1.12 Notices

1.12.1 Any notice or other communication from one Party to the other Parties required or permitted to be given under this Agreement must be in writing and will be sufficiently given or made if delivered during normal business hours on a Business Day and left at the recipient's address set out below, or if transmitted to the recipient by e-mail; and

1.12.2 if to EEC, addressed to it at:

ENMAX Energy Corporation  
141 – 50th Avenue S.E. Calgary, AB T2G 4S7  
Attention: Wesley Manfro  
Phone: (403) 390-7748  
E-mail: WManfro@enmax.com

1.12.3 if to the CCA, addressed to it at:

Consumers' Coalition of Alberta  
c/o its legal counsel Wachowich & Co  
Attention: James Wachowich  
Birks Building Suite 410, 10113-104 street  
Edmonton T5J 1A1  
Phone: 780-429-0555 x 223  
Facsimile: 780-425-4795  
E-mail: jim@wachowich.com

1.12.4 if to the UCA, addressed to it at:

Office of the Utilities Consumer Advocate  
9th Floor, Century Park Place  
855 8th Avenue S.W.  
Calgary, AB T2P 3P1  
Attention: Chris Hunt  
E-mail: chris.hunt@gov.ab.ca

1.12.5 Any notice or other communication given or made in the manner set out above will be deemed to have been given or made and to have been received on the day of delivery or transmission, as the case may be, if delivered or transmitted during the normal business hours of the recipient on a Business Day and, if not, on the next Business Day. Any Party may change the contact information set out above by giving written notice of that change to the other Parties in accordance with this section.

### **1.13 No Waiver**

No waiver of any provision of this Agreement will be valid or enforceable unless in writing and signed by the Party against whom enforcement of the waiver is sought. The waiver of any provision of this Agreement, at any time, by any Party, will not constitute a waiver of future compliance with that provision or a waiver of compliance with any other provision of this Agreement.

### **1.14 Governing Law**

This Agreement and all disputes arising in connection with it will be subject to, governed by, and construed in accordance with the laws of the Province of Alberta including the laws of Canada that are applicable in Alberta.

### **1.15 Severability**

In the event that any of the provisions of this Agreement are held by a court of competent jurisdiction to be invalid, all other provisions of this Agreement will remain enforceable to the fullest extent permitted by law, unless such finding materially impairs the economic benefit or protections to be derived by a Party under this Agreement.

### **1.16 Execution**

This Agreement may be executed by electronic signature, or by providing a scanned copy of the executed execution page, and may be executed by different Parties in different counterparts, each of which will be an original and all of which will constitute one and the same instrument.

### **1.17 Time of the Essence**

1.17.1 Time will be of the essence in respect of this Agreement.

1.17.2 For the purposes of this Agreement “force majeure” shall mean any circumstance beyond the reasonable control of the party affected thereby.

1.17.3 None of the Parties are liable for any loss, damage or delay in fulfilling the obligations under this Settlement Agreement caused by or resulting from force majeure. Force majeure includes, but is not limited to, shortage of power, facilities, materials and supplies, breakdowns in or the loss of production, acts of God, war, mobilization, strikes, lockouts, riots, fire, flood, explosion, governmental controls or regulations, or delays in transportation, labour disputes, civil insurrection, civil or military authority or any other cause or circumstance whatsoever beyond the Party’s reasonable control.

1.17.4 In an event of a force majeure, the defaulting Party is allowed a reasonable period of time to cure the default.

## **ARTICLE 2 CONDITIONS PRECEDENT**

This Agreement is contingent on the AUC accepting all of the provisions of this Agreement as contemplated under s. 135 of the *EUA*. Unless otherwise agreed by the Parties in

writing, if the AUC does not approve this Agreement in whole, this Agreement will be null and void.

### **ARTICLE 3 REQUIREMENTS UNDER RULE 018**

#### **3.1 Notice**

Proper notice has been provided of the negotiation of this Agreement to all interested parties by way of correspondence on the eFiling System (Ex. 27714-X0024) and further notice will be given with the filing of EEC's application for approval of this Agreement in accordance with the AUC's directions and practice, including the notice provisions of AUC Rule 001: *Rules of Practice*.

#### **3.2 Relevant Information Disclosed**

3.2.1 Each of the Parties represents that it has not withheld any relevant information in the course of negotiating the Agreement.

3.2.2 EEC represents that all information it provided to the CCA and the UCA during the negotiated settlement process was true and accurate, to the best of EEC's knowledge.

#### **3.3 Meaningful Participation**

3.3.1 The Parties were provided with the opportunity to explain their positions, ask questions of other Parties and were provided with further information during negotiations, subject to ARTICLE 7 regarding confidentiality, as requested.

3.3.2 The Parties agree that they had meaningful participation in the negotiation process.

#### **3.4 Settlement in the Interest of the Parties and in the Public Interest**

The Parties agree that the terms of the Agreement are in their interest, and in the public interest, including that the Agreement will result in rates that are just and reasonable.

### **ARTICLE 4 COSTS OF THE CCA**

#### **4.1 Payment of Costs**

4.1.1 EEC will pay, on an interim refundable basis, the costs incurred by the CCA in the 2022-2024 RRT Application and in respect of this Agreement on receipt of an invoice from the CCA.

4.1.2 Unless otherwise agreed, the CCA agrees to provide EEC applicable invoice(s) no later than thirty 30 days following issuance of an AUC order respecting EEC's application for approval of the matters covered by this Agreement.

4.1.3 In addition to an invoice(s), the CCA will also indicate in writing the costs included in the invoice(s) have been reasonably incurred and the cost claim

has been prepared in accordance with the AUC's guidelines for utility costs claims.

- 4.1.4 EEC will file with the AUC a summary of costs paid by EEC to the CCA under this section within 30 days of the close of the proceeding. The summary will also include costs incurred by EEC in respect of its Application and in respect of negotiating this Agreement. Each of the Parties will be responsible for providing any additional information the AUC may request in respect of their individual cost claim(s). Should the AUC determine all, or a portion, of the costs paid by EEC to the CCA under this section are not recoverable, then the CCA will pay the disallowed amount back to EEC within 30 days following a decision on any appeal made in respect of that decision or, if no appeal is made, within 35 days following issuance of the original cost order.
- 4.1.5 Costs incurred by EEC and the CCA in respect of this Agreement and in respect of EEC's 2022-2024 RRT Application will be recoverable by those Parties and, subject to approval and any adjustments by the AUC, included as part of the hearing cost recovery account.

## **ARTICLE 5 GENERAL TERMS OF SETTLEMENT**

### **5.1 2022-2024 RRT Application Approval**

The Parties agree that the 2022-2024 RRT Application should be approved as filed, subject to the additional provisions set out herein.

### **5.2 Reductions in EEC's 2022-2024 RRO Non-Energy Revenue Requirement**

The Parties have agreed to the following reductions and adjustments to EEC's 2022-2024 RRO Non-Energy revenue requirement, totaling \$(1.84) million over the Test Period:



Description	Revenue Requirement Reduction (\$M)			
	2022	2023	2024	Total
<b>Applied-For Revenue Requirement</b>	<b>12.36</b>	<b>12.74</b>	<b>12.20</b>	<b>37.30</b>
Reduction 1 – Communication Costs	(0.18)	(0.14)	(0.15)	(0.47)
Reduction 2 – Billing and Customer Care <sup>1</sup>	-	(0.47)	(0.81)	(1.28)
Reduction 3 – Salary Escalators	-	(0.01)	(0.01)	(0.03)
Adjustment 4 – Non-Salary Escalators	-	0.02	0.02	0.03
Reduction 5 – IT Cost Allocation Adjustment	-	(0.05)	(0.05)	(0.10)
<b>Total Reduction</b>	<b>(0.18)</b>	<b>(0.66)</b>	<b>(1.00)</b>	<b>(1.84)</b>
<b>Settlement Revenue Requirement</b>	<b>12.18</b>	<b>12.08</b>	<b>11.20</b>	<b>35.46</b>

EEC notes that an update to the non-salary escalators was included in the Agreement as more recent information was put on the record (Ex. 27714-X0142). This update was agreed upon by the Parties as past precedent with the Commission has been to use the most recent data available.

### 5.3 Salary Escalators - CUPE Ratification

5.3.1 The Parties have agreed to update Reduction 3 referenced in the table set out in Section 5.2 above to reflect salary escalations for CUPE employees for years 2023 and 2024 that match EEC's approved CUPE negotiations as set out in any ratified 2023-2025 CUPE Agreement.

5.3.2 The table above currently includes a 3% CUPE salary escalation for years 2023 and 2024. Once the 2023-2025 CUPE Agreement has been ratified, EEC will update its approved revenue requirement and associated administration charges to reflect the change in salary escalators for years 2023 and 2024.

### 5.4 Updated Site Count and Forecast Methodology

5.4.1 The Parties have agreed to use the updated annual average RRO site counts for the residential and commercial rate classes using EEC's approved site forecast methodology as set out in Exhibit 27714-X0088 for years 2023 and

<sup>1</sup> Includes associated impacts to revenue offsets, working capital, and rent.

2024 to calculate the revenue requirement and associated administration charges.

Average Annual RRO Sites	2023	2024
Residential	105,868	94,295
Commercial	9,663	8,723
<b>Total</b>	<b>115,531</b>	<b>103,018</b>

5.4.2 In addition, the Parties have agreed to reject EEC’s annual update proposal for site counts as set out in Section 4.4.1 of the Application. For clarity, EEC’s proposal to annually update its site counts using the most recent 36-months of actual data to calculate the rate of decrease (or increase) of RRO site counts will not be used within the Test Period.

5.4.3 Incorporating the agreed upon revenue requirement reductions and adjustments from Section 5.2 in conjunction with the agreed upon site counts in section 5.4.1 has reduced the administration charges in 2022 relative to what was applied and has increased the administration charges in 2023 and 2024.

Administration Charges (\$/day)	2022	2023	2024
Residential	0.2518	0.2879	0.2981
Commercial	0.2256	0.2697	0.2857

## 5.5 Bad Debt Reporting Requirements

5.5.1 The Parties have agreed to use EEC’s applied-for 36-month bad debt forecast revenue requirement and annual update proposal for bad debt as set out in Section 4.4.2 of the Application with the following additional reporting requirements:

5.5.1.1 EEC will prepare a variance explanation if the 36-month bad debt forecast dollar amount equals or exceeds +/- 10% of the prior year’s forecast, where the prior year’s annual forecast is multiplied by 1.1 for the upper bound, and 0.9 for the lower bound.

5.5.1.2 EEC will file an application with the Commission to test the bad debt forecast dollar amount if the 36-month bad debt forecast equals or exceeds +/- 25% of the prior year’s forecast, where the prior year’s annual forecast is multiplied by 1.25 for the upper bound, and 0.75 for the lower bound.

5.5.1.3 If the +/- 10% variance threshold is triggered:

- (a) EEC will prepare a variance explanation for the current forecast, incorporating information and analysis including, but not limited to, monthly actual bad debt for the prior 36 months, any available bad debt amounts after the calendar 36-month calendar year period, changes in site counts, changes in RRO energy prices, relevant economic indicators in the Calgary Census Metropolitan Area, description of any changes in bad debt collection practices, changes in delinquency support programming by governments, and any other information EEC considers may be relevant in explaining its bad debt.
- (b) Provide a letter of attestation from a Vice-President or Director which contains what the bad debt amounts are, what EEC's bad debt collection process is for the RRO, and that EEC is following this process.

5.5.1.4 If the +/- 25% abbreviated process threshold is triggered:

- (a) EEC will file an application with the Commission requesting an abbreviated process to test the bad debt forecast within 30 days of making its AUC Rule 005: *Annual Reporting Requirements of Financial and Operational Results* filing. The application shall include the information contained in the variance explanation and associated letter of attestation as set out above. The abbreviated process being applied for will consist of one round of information requests, and argument and reply argument on the merits of the bad debt forecast (if required). EEC shall request parties to this negotiated settlement process be granted standing in the application.
- (b) EEC's forecasted rates will still be used effective July 1 of the relevant year but will be on an interim refundable basis subject to a decision on its application to test the bad debt forecast as set out above.

## 5.6 Additional Site Count Reporting Requirements

The Parties have agreed that EEC will provide a variance explanation for material variances between Market Surveillance Administrator data and its forecasted competitive electric site counts in its next RRO Non-Energy Application. EEC will also provide a letter from a Vice-President attesting that the competitive electric site count forecast is reasonable and is the same site count forecast employed by EEC's competitive business used to allocate the RRO's share of B&CC costs.

## 5.7 Additional Billing and Customer Care Reporting Requirements

The Parties have agreed that EEC will provide, as part of its next RRO Non-Energy Tariff Application, information related to its B&CC costs, in a format similar to that provided in Exhibit 27714-X0104 and will include a minimum of two years of actual results and the forecast years in the applied-for test period.

## **ARTICLE 6 NO EXCLUDED MATTERS**

The Parties confirm that all in-scope components of the 2022-2024 RRT Application are resolved under this Agreement; all in-scope issues were resolved unanimously; and that there are no outstanding in-scope issues as between the Parties.

## **ARTICLE 7 CONFIDENTIALITY AND PRIVILEGE**

### **7.1 Without Prejudice**

The negotiated settlement reflected in this Agreement is a compromise and was reached in part as a result of the desire of the Parties to avoid the significant resources associated with a litigated process. This Agreement is for the 2022-2024 RRT only, and it is without prejudice to the positions that any of the Parties may take in any other negotiations and regulatory proceedings.

### **7.2 No Disclosure**

All discussions among the Parties during the negotiated settlement process are privileged and confidential, and no matter discussed and no information provided during the negotiated settlement process may be disclosed to any person or to the AUC without the express written consent of all Parties.

## **ARTICLE 8 APPROVAL BY AUC**

### **8.1 AUC Approval**

- 8.1.1 As addressed in ARTICLE 2 - CONDITIONS PRECEDENT, this Agreement is contingent on the AUC accepting all of the provisions of this Agreement.
- 8.1.2 The Parties agree that in the application for approval of this Agreement, EEC will request that if the AUC is considering rejecting this Agreement because it is concerned with one or more provisions, it indicate to the Parties which of the provisions of the Agreement are the source of the AUC's concern, and request that in such a case, the AUC provide the Parties with an opportunity to re-negotiate in an attempt to address the AUC's concern.
- 8.1.3 The CCA and the UCA agree that they will support the application by EEC to the AUC for approval of this Agreement.

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IN WITNESS WHEREOF, the Parties have duly executed this Agreement effective the date set out above.

**ENMAX Energy Corporation**



Per: Corey Poole  
Title: VP, Mass Market Retail + Customer Experience  
Date: March 28, 2023

**Consumers' Coalition of Alberta**

\_\_\_\_\_  
Per:  
Title:  
Date:

**Office of the Utilities Consumer  
Advocate**

\_\_\_\_\_  
Per:  
Title:  
Date:

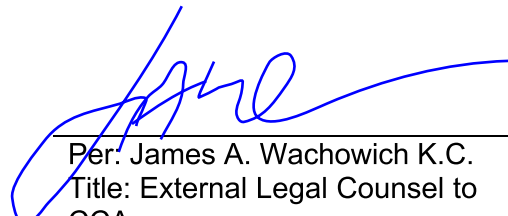
IN WITNESS WHEREOF, the Parties have duly executed this Agreement effective the date set out above.

**ENMAX Energy Corporation**

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Per:  
Title:  
Date:

**Consumers' Coalition of Alberta**



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Per: James A. Wachowich K.C.  
Title: External Legal Counsel to  
CCA  
Date: March 28, 2023 ID 27714  
NSA

**Office of the Utilities Consumer  
Advocate**



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Per: Chris Hunt  
Title: Executive Director, UCA  
Date: 28 March 2023



**ENMAX ENERGY CORPORATION  
REGULATED RATE TARIFF  
Terms and Conditions**

Effective June 1, 2023

**ENMAX Energy Corporation  
Regulated Rate Tariff  
Terms and Conditions**

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**ARTICLE 1 PREAMBLE**

ENMAX Power has made arrangements with ENMAX Energy to perform ENMAX Power's obligations to provide Regulated Rate Service to Customers in the Service Area. ENMAX Energy provides Regulated Rate Service under its Regulated Rate Tariff that has been approved by the Commission and includes these RRT Terms and Conditions and the Price Schedules. The Price Schedules set out the rates, charges and fees approved by the Commission for Regulated Rate Service provided by ENMAX Energy.

These RRT Terms and Conditions set forth the terms and conditions upon which ENMAX Energy will provide Regulated Rate Service to Customers in the Service Area.

**ARTICLE 2 INTERPRETATION**

**2.1 DEFINITIONS**

The following words and phrases, whenever used in these RRT Terms and Conditions or the Price Schedules, shall have the respective meanings set out below:

"**Alberta Interconnected Electric System**" means "interconnected electric system" as defined in the EUA.

"**Applicable Law**" means statutes, regulations, regulatory requirements, governmental requirements, or orders, directives, rules or procedures or other similar instruments applicable to the provision or receipt of Regulated Rate Service, that are implemented, promulgated, issued, ordered or adopted by any court, government, government agency, regulatory body, the ISO or any other body having jurisdiction over ENMAX Energy or the Customer.

"**Business Day**" means a day other than a Saturday or a "holiday" as that term is defined in the *Interpretation Act*, R.S.A. 2000, c. I-8.

"**Charge**" and "**Charges**" have the meanings given to such terms in Section 7.2.

"**Claims**" means all claims, actions, costs, fees (including legal fees and disbursements on a full indemnity basis), judgments, fines, penalties and any liability in law, equity, tort or contract for any loss, damage, injury or claim of any nature whatsoever.

"**Credit Agency**" means an entity that collects credit information and provides credit reports

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and other information regarding a person's creditworthiness and payment history, and includes a "reporting agency" as defined in the Fair Trading Act and a "credit reporting organization" as defined in the Personal Information Protection Act.

"**Commission**" means the Alberta Utilities Commission, or any predecessor or successor organization with jurisdiction under Applicable Law or the Regulation.

"**Customer**" means a "regulated rate customer" as defined in the Regulation who applies for, accepts, uses or receives Regulated Rate Service.

"**Deposit**" means the cash security for payment for Regulated Rate Service, as determined by ENMAX Energy pursuant to Section 5.1, and includes accumulated interest pursuant to Section 5.5, if applicable.

"**Disconnected**" and "**Disconnection**" and derivatives of such terms mean the de-energization of a Site or the installation of a current limiting device at a Site by ENMAX Power.

"**Distribution Access Service**" means "distribution access service" as defined in the EUA provided to Customers by means of ENMAX Power's Distribution System.

"**Distribution System**" means "electric distribution system" as defined in the EUA.

"**Distribution Tariff**" means the ENMAX Power's tariff for the provision of Distribution Access Service approved by the Commission and in effect from time to time.

"**ENMAX Energy**" means ENMAX Energy Corporation.

"**ENMAX Power**" means ENMAX Power Corporation, being the owner of the Distribution System in the Service Area.

"**Electricity**" means "electricity" as defined in the EUA.

"**Electricity Services**" means "electricity services" as defined in the EUA.

"**EUA**" means the Electric Utilities Act, S.A. 2003, c.E-5.1, including the regulations enacted thereunder, as re-enacted, amended, supplemented or replaced from time to time.

"**Facilities**" means physical plant including, without limitation, transmission and distribution lines, transformers, meters, equipment and machinery.

"**Force Majeure**" means circumstances not reasonably within the control of ENMAX Energy

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including acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, high water, washouts, inclement weather, orders or acts of civil or military authorities, civil disturbances, explosions, breakdown or accident to equipment, mechanical breakdowns, or diminution, impairment or interruption of supply, goods or services including Electricity or Distribution Access Service, the intervention of federal, provincial, or local government or from any of their agencies or boards (excluding decisions and/or orders made by the Commission in the normal course of exercising its authority to establish the revenue requirement and the Terms and Conditions of the Regulated Rate Option tariff), the order or direction of any court, and any other cause, whether of the kind herein enumerated or otherwise, provided however, that a force majeure shall not include inability to pay or a lack of financial resources.

"**ISO**" means the Independent System Operator as established pursuant to the EUA, or any successor entity existing from time to time.

"**Owner**" means the owner or owners of a Premises, and includes their respective agents (i.e. property managers), successors and assigns.

"**Permissible Disconnection Period**" means the period from April 16 to October 14 of any year, so long as the outdoor temperature will be above 0 degrees Celsius in the 24-hour period after the proposed Disconnection.

"**Person**" means an individual, trustee, executor, administrator, legal representative, partnership, corporation, organization, association or other legal entity, and includes an individual member thereof as applicable.

"**Premises**" means a property, together with any building(s) thereon, which are serviced by one or more Sites.

"**Price Schedules**" means the rate and fee schedules forming part of the Regulated Rate Tariff that set out the charges that will be charged to Customers for Regulated Rate Service, as amended from time to time.

"**Regulated Rate Service**" means the Electricity Services that are required by the EUA and the Regulation to be provided to Customers in accordance with a regulated rate tariff.

"**Regulated Rate Tariff**" means ENMAX Energy's tariff approved by the Commission comprised of these RRT Terms and Conditions and the Price Schedules, and pursuant to which Regulated Rate Service is provided to Customers in accordance with the Regulation.

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"**Regulation**" means the Regulated Rate Option Regulation, AR 262/2005, as amended or replaced, from time to time.

"**RRT Terms and Conditions**" means these terms and conditions for the Regulated Rate Tariff, as amended from time to time.

"**Service Area**" means ENMAX Power's service territory.

"**Service Connection**" means the Facilities at the point where ENMAX Power's Distribution System connects to a Site.

"**Site**" means the end-use electricity delivery point where a Customer receives Electricity by means of a Service Connection.

"**Tenant**" means a Person, other than an Owner, who has the use of or occupies a Premises, and applies for and obtains Regulated Rate Service.

## **2.2 CONFLICTS**

If there is any conflict between these RRT Terms and Conditions and a provision expressly set out in an order of the Commission, the provision in the Commission's order shall govern. If there is any conflict between these RRT Terms and Conditions and a provision of the EUA, the provision of the EUA shall govern.

If there is any conflict between these RRT Terms and Conditions and the corresponding Price Schedules, the Price Schedules shall govern.

## **2.3 HEADINGS**

The division of these RRT Terms and Conditions into sections, subsections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of these RRT Terms and Conditions.

## **2.4 EXTENDED MEANINGS**

In these RRT Terms and Conditions, words importing the singular number only shall include the plural and vice versa, words importing the masculine gender shall include the feminine and neuter gender and vice versa.

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**2.5 CHARGES**

The Charges referred to in these RRT Terms and Conditions are as set out in Section 7.2.

**ARTICLE 3 GENERAL PROVISIONS**

**3.1 EFFECTIVE DATE**

These RRT Terms and Conditions have been approved by the Commission in Decision 27714-D02-2023, and are effective as of June 1, 2023, and shall remain in force until such time as the Commission approves a new Regulated Rate Tariff.

**3.2 CUSTOMERS BOUND BY REGULATED RATE TARIFF**

The Regulated Rate Tariff approved by the Commission applies to each Customer. As a condition of receiving Regulated Rate Service, the Customer agrees to be bound by these RRT Terms and Conditions. By taking Regulated Rate Service at any Site the Customer agrees to pay the Charges.

**3.3 MODIFICATION OF REGULATED RATE TARIFF**

No agent, employee or other representative of ENMAX Energy is authorized to modify any provision or Charge contained in the Regulated Rate Tariff or to bind ENMAX Energy to perform in any manner inconsistent with the Regulated Rate Tariff. Any waiver or alteration of any part of the Regulated Rate

Tariff must be filed with and approved by the Commission. Notwithstanding the foregoing, ENMAX Energy may make minor routine administrative changes to the Regulated Rate Tariff, such as corrections to punctuation, grammar or numbering, provided that the changes do not alter the meaning of the clause and ENMAX Energy files such updated RRT Terms and Conditions with the Commission. Whenever the Commission approves an amendment to these RRT Terms and Conditions or an amendment otherwise takes effect, these RRT Terms and Conditions will be automatically revised to incorporate such amendments.

**3.4 RENTAL PREMISES**

Except as set out below, for purposes of these RRT Terms and Conditions and the provision of Regulated Rate Service to a Premises, the Owner of such Premises will be deemed the Customer. If a Tenant contacts ENMAX Energy with respect to the provision

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of Regulated Rate Service to a Premises, then ENMAX Energy will assume that the Owner has permitted the Tenant to be the Customer while such Person is a Tenant, unless the Owner advises ENMAX Energy otherwise. An Owner will automatically revert to being the Customer for a Premises on the date that there is no longer a Tenant for such Premises, provided that ENMAX Energy will provide the Owner with written notice as soon as practicable when the Owner reverts to being the Customer. The Owner will not be responsible for paying any Charges incurred by a Tenant while such Tenant was the Customer for the Premises, unless the Owner agrees or instructs ENMAX Energy otherwise. An Owner will be liable to pay any Charges relating to identifying, searching for and contacting an Owner as a result of there being no Tenant for a Premises. In its sole discretion acting reasonably, ENMAX Energy will determine the date upon which there was no Tenant for a Premises, and in doing so, it may rely on information received from either the Owner or Tenant, or otherwise obtained.

If, after notification by the methods set out in Section 10.4 of the specific circumstances of default (other than non-payment of a bill) and a five Business Day grace period to remedy the default, a Tenant fails to meet any of the requirements set out in Section 4.1 of these RRT Terms and Conditions (a "Tenant Default"), and in addition to any remedies that ENMAX Energy has under Section 7.6, EEC has the right to designate the Owner to be the Customer for the Premises, and the Owner of the Premises shall thereafter be liable for payment for Regulated Rate Service provided in accordance with the Regulated Rate Tariff and these Terms and Conditions, starting immediately upon ENMAX Energy providing written notice to the Owner of a Tenant Default, which notice may be provided by mail or hand delivery.

In the event of a Tenant Default, the Owner of a Premises will be liable for all charges related to identifying, searching for and contacting the Owner.

ENMAX Energy will provide Owners with the opportunity to register all Sites that they own or are responsible for such that in the case of vacancy, the Owner will automatically become the Customer. This registration will not bind the Owner to be responsible for past charges of a Tenant, incurred before the date of vacancy, unless specifically requested by the Owner.

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**ARTICLE 4 REGULATED RATE SERVICE**

**4.1 REQUIREMENTS FOR OBTAINING REGULATED RATE SERVICE**

To obtain and continue to receive Regulated Rate Service a Person must:

- (i) be, or be capable of becoming, a Customer with respect to a Site in the Service Area;
- (ii) be either an Owner or a Tenant with respect to a Site in the Service Area;
- (iii) provide ENMAX Energy with sufficient billing information, and if requested, proof of identification, existence or status (if a corporation), as ENMAX Energy considers appropriate in the circumstances. Such information will be required to be given to ENMAX Energy by every Customer, notwithstanding that such Customer may have previously provided similar information to another regulated rate service provider or electricity services retailer;
- (iv) provide ENMAX Energy with (i) sufficient information to satisfy ENMAX Energy, acting reasonably, of the Customer's creditworthiness and (ii) if so determined by ENMAX Energy a Deposit pursuant to Section 5.1;
- (v) receive and maintain service from ENMAX Power pursuant to the Distribution Tariff, and comply with all of the Customer's obligations under the Distribution Tariff and Applicable Law;
- (vi) pay all amounts that become due under these RRT Terms and Conditions on or before the applicable due date; and
- (vii) abide by its obligations under the Regulated Rate Tariff.

ENMAX Energy reserves the right to verify the age, existence or status (if a corporation), identity of the Customer and the accuracy of any other information provided pursuant to subsection (a) above before providing Regulated Rate Service to a Site.

**4.2 REFUSAL OF REGULATED RATE SERVICE**

ENMAX Energy reserves the right to (i) refuse to provide Regulated Rate Service to a Customer or (ii) terminate Regulated Rate Service being provided to a Customer pursuant to Section 8.5 where:

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- (a) the Customer does not have a satisfactory credit rating or credit history, as determined by ENMAX Energy, and fails to pay a Deposit;
- (b) the Customer has an outstanding balance with ENMAX Energy for Regulated Rate Service;
- (c) a previous Tenant at the Premises had a history of non-payment and ENMAX Energy can reasonably demonstrate that such prior defaulting Tenant would continue to be a Tenant of the Premises; or
- (d) the Customer fails to meet any of the requirements set forth in Section 4.1.

**4.3 ACCURACY OF INFORMATION**

The Customer represents and covenants to ENMAX Energy that all oral or written information furnished by or on behalf of the Customer relating to the Regulated Rate Service, whether financial or otherwise, is accurate and complete in every respect on the date that such information is provided.

The Customer must notify ENMAX Energy as soon as reasonably possible of a change of name, mailing address, telephone number, vacancy at a Premises, sale of a Premises or other pertinent information.

**4.4 REQUEST FOR REGULATED RATE SERVICE**

A Customer may request Regulated Rate Service by contacting ENMAX Energy by telephone.

**ARTICLE 5 FINANCIAL SECURITY REQUIREMENTS**

**5.1 REQUIREMENT FOR DEPOSIT**

ENMAX Energy may require the Customer to pay a Deposit in an amount determined by ENMAX Energy, including without limitation, in the following circumstances:

- (a) if the Customer does not have a satisfactory credit rating or credit history, as reasonably determined by ENMAX Energy;
- (b) the Customer has paid two (2) consecutive bills late in any twelve (12) month period or three (3) non-consecutive bills late in any twelve (12) month period;
- (c) the Customer has issued more than one (1) payment that has been returned for non-sufficient funds in any six (6) month period;

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- (d) there has been more than a 50% increase in the Customer's average monthly consumption of Electricity over the prior six (6) month period; or
- (e) the Customer makes a request for reconnection and resumption of Regulated Rate Service following a Disconnection for non-payment.

**5.2 MAXIMUM DEPOSIT**

The maximum Deposit ENMAX Energy may require from the Customer is not to exceed thirty (30) percent of the annual total bill payable by the Customer for the Site, as reasonably estimated by ENMAX Energy.

**5.3 USE OF DEPOSIT**

ENMAX Energy may, in its sole discretion, apply a Deposit, or portion thereof, to any Charges that were not paid when due.

**5.4 RETURN OF DEPOSIT**

A Deposit will be credited to the Customer's Regulated Rate Service account after the Customer has demonstrated a satisfactory payment history over a period of twelve (12) consecutive months. If the Customer discontinues Regulated Rate Service or the Customer's Regulated Rate Service is Disconnected the Deposit will be applied as a credit against any outstanding Charges. Any credit balances arising under this Section shall be dealt with pursuant to Section 7.7. Notwithstanding the foregoing, if a Customer has another account with ENMAX Energy for Regulated Rate Service being provided to another Site then ENMAX Energy may apply the Deposit to such other account.

**5.5 INTEREST PAYABLE ON DEPOSITS**

The Deposit, until applied to the Customer's account or refunded to the Customer, will accumulate interest at a rate equivalent to the one-year non-redeemable Royal Bank GIC rate in effect ten (10) Business Days prior to the start of the applicable calendar year for investments of \$500 to \$99,999.99. Such interest rate will be updated annually.

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**ARTICLE 6 MEASUREMENT OF ENERGY CONSUMPTIONS**

**6.1 MEASUREMENT OF ELECTRICITY**

Under the Distribution Tariff ENMAX Power provides ENMAX Energy with meter readings and estimates of consumption of Electricity by Customers. Additionally, ENMAX Energy may estimate consumption of Electricity by a Customer. Billings to Customers under these RRT Terms and Conditions shall be based on those meter readings and estimates. ENMAX Energy assumes no liability to the Customer for meter readings and estimates provided by ENMAX Power.

**6.2 METER TESTING**

If a Customer believes the meter to be in error, the Customer must contact ENMAX Energy to request that the meter be tested. ENMAX Energy agrees to promptly request ENMAX Power to test such meter. The Customer will pay ENMAX Energy all Charges incurred by ENMAX Energy relating to the meter testing in accordance with the Distribution Tariff, provided however that the Customer will not be responsible for paying such Charges if a meter has been proven to have been in error.

**ARTICLE 7 BILLINGS AND PAYMENT**

**7.1 BILLING PRACTICES**

ENMAX Energy will use reasonable efforts to bill the Customer for Regulated Rate Service provided at the Site in accordance with the Price Schedules on a monthly basis. Notwithstanding ENMAX Energy's failure to bill a Customer on a monthly basis, such Customer will nonetheless remain obligated to pay any Charges incurred within 12 months of the date of a bill as provided in Section 17 of the *Regulated Rate Option Regulation* (AR 262/2005). ENMAX Energy will issue a separate bill for each Site, however, upon notice from the Customer ENMAX Energy may agree to issue one (1) bill for all charges for Regulated Rate Service delivered at more than one Site.

Bills shall be deemed delivered to the Customer if delivered personally, or when mailed to or left at the Premises where Regulated Rate Service is provided or the last known address of the Customer. Failure to receive a bill from ENMAX Energy or loss of a bill by the Customer will not entitle the Customer to claim (i) that the Customer is not responsible for any Charges, (ii) any delay in the payment of such bill, or (iii) any extension of the date after which a late payment charge, or any other remedy, becomes applicable. Payments shall be without prejudice to the

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Customer's right to contest any Charge pursuant to Section 7.10.

**7.2 CHARGES**

Subject to Section 7.10, in consideration of ENMAX Energy providing the Customer with Regulated Rate Service at a Site the Customer agrees to pay for:

- (a) actual Electricity consumed, or estimated consumption at the Site as determined by ENMAX Energy or ENMAX Power, at the rate set out in the Price Schedules;
- (b) other charges, security deposits, and fees set out in the Regulated Rate Tariff, including the Price Schedules;
- (c) charges, adjustments and fees levied pursuant to the Distribution Tariff;
- (d) any taxes, charges, assessments, fees and duties of any kind levied or imposed by any government or public authority, including without limitation goods and services tax and any other similar sales and excise taxes, which relate to the Regulated Rate Service and that ENMAX Energy is required to collect pursuant to Applicable Law; and
- (e) any other charges, fees, other amounts or riders as may be approved by the Commission from time to time as part of the Regulated Rate Tariff; (collectively the "**Charges**" and individually a "**Charge**").

**7.3 RESPONSIBILITY FOR PAYMENT**

The Customer is responsible for payment of the Charges for a Site from the time that Regulated Rate Service is obtained until such time as Regulated Rate Service is discontinued, the Site is Disconnected or the Customer ceases being a Tenant pursuant to Section 3.4. The Customer shall remain responsible for payment of all Charges until full payment of the same has been received by ENMAX Energy.

**7.4 PAYMENT**

Charges owing will be set forth on a bill issued to the Customer by ENMAX Energy. Charges are due on the date specified on the bill, but in any event shall be paid in full no later than the date specified on the bill. Payment of a bill shall be made by way of cash, bank cheque, automatic debit, credit card or such other electronic instrument explicitly permitted by ENMAX Energy.

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**7.5 LATE PAYMENT CHARGE**

Late payment charges, at a rate specified in the Price Schedules and set forth on a bill, will be applied to the any unpaid current Charges, no less than twenty-five (25) days following the date specified on the bill. Such unpaid Charges, including the late payment charge, will be added to new Charges that become due and payable on the next bill.

**7.6 REMEDIES FOR NON-PAYMENT**

Without limitation of other remedies available to it, ENMAX Energy may take one or more of the following actions should the Customer fail to pay billed amounts in full on time:

- (a) request a Deposit or an increased Deposit;
- (b) provide written notice, make a telephone call or provide personal notice to the Customer that payment has not been received, and stipulating the timing for future action if payment or other arrangements are not made;
- (c) provide written notice or make a telephone call indicating pending notice of Disconnection and timing of Disconnection action;
- (d) subject to limitations on Disconnection outlined in Applicable Law, initiate Disconnection;
- (e) use collection agencies;
- (f) make a report to a Credit Agency, after first giving notice to the Customer of ENMAX Energy's intention to make such a report and giving the Customer five (5) Business Days from the time the notice is deemed to be effective under Section 10.4(g) to pay all outstanding Charges; and
- (g) take legal action.

Collection costs incurred by ENMAX Energy as set forth in the Price Schedules and any other related charges set forth in the Distribution Tariff will be added to the Customer's outstanding account.

**7.7 OVERPAYMENTS**

If at any given time an on-going Customer's account contains a balance in excess of what is owed to ENMAX Energy, the excess amount will be carried as a credit balance on the Customer's

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account and applied to future Charges, provided however, that should the credit balance exceed the sum of one hundred (100) dollars the Customer may request a refund of the credit balance. If the Customer has discontinued Regulated Rate Service for a Site or is Disconnected, ENMAX Energy will refund any credit balance of ten (10) dollars or more. The Customer may obtain a refund of credit balances that are less than ten (10) dollars if, within twelve (12) months of the Customer's discontinuance of Regulated Rate Service or Disconnection, the Customer requests such refund from ENMAX Energy.

**7.8 DISHONoured PAYMENTS**

Receipt by ENMAX Energy of a cheque or other payment instrument that is dishonoured, rejected or reversed by any financial institution when presented for payment by ENMAX Energy shall not be considered valid payment. ENMAX Energy reserves the right to reject post-dated cheques. In addition to any late payment charge, the Customer shall pay any amounts relating to dishonoured payments specified in the Price Schedules.

**7.9 NOVELTY PAYMENTS**

ENMAX Energy follows the coin acceptance limitations specified in the *Currency Act*, S.C. 1985, c. C-52 as follows:

- (a) Payment in coin may be made to the maximum amount of:
  - (i) Forty (40) dollars if the denomination is two (2) dollars or greater but does not exceed ten (10) dollars;
  - (ii) Twenty-five (25) dollars if the denomination is one (1) dollar;
  - (iii) Ten (10) dollars if the denomination is ten (10) cents or greater but less than one (1) dollar;
  - (iv) Five (5) dollars if the denomination is five (5) cents; and
  - (v) Twenty-five (25) cents if the denomination is one (1) cent.

**7.10 DISPUTE OF BILL**

The Customer may dispute Charges shown on a bill by contacting and advising ENMAX Energy of the reason for the dispute. ENMAX Energy will promptly investigate all disputes and advise the

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Customer of its findings. The Customer will not be required to pay any Charges in dispute on a bill that are in excess of the average monthly bill of the Customer, as reasonably determined by ENMAX Energy. The Customer will be responsible to pay all non-disputed past and future Charges while a specific Charge is in dispute. Any unpaid disputed Charges, including accrued late payment charges thereon, shall be due and payable within ten (10) Business Days if the dispute is resolved in favour of ENMAX Energy.

**7.11 TRANSFER OF OUTSTANDING AMOUNTS**

If Regulated Rate Service is cancelled by the Customer, discontinued by ENMAX Energy or Disconnected, any unpaid Charges in the Customer's account may be transferred to any other Regulated Rate Service account held by ENMAX Energy with the same Customer, and any Deposit held in respect of such other account may be applied against said unpaid Charges.

**7.12 PARTIAL PAYMENTS**

Partial payments on an account will be applied to the unpaid amounts outstanding on the longest outstanding bills.

**ARTICLE 8 MOVING, DISCONTINUING AND DISCONNECTING SERVICE**

**8.1 NOTICE TO CLOSE ACCOUNT**

A Customer may discontinue and close an account for Regulated Rate Service for a Site by giving ENMAX Energy at least three (3) business days prior notice. ENMAX Energy may request proof that the Customer will no longer be responsible for the Site after that date. If such Customer was a Tenant, then following such notice, the Owner will be deemed the Customer pursuant to Section 3.4. If such Customer was the Owner, then ENMAX Energy will request Disconnection of the Site.

**8.2 RELOCATION OF CUSTOMER**

If the Customer wishes to transfer their account from a Site to another Site, the Customer must notify ENMAX Energy of the address for the new Site at least three (3) business days prior to the relocation.

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**8.3 DISCONNECTION FOR SAFETY AND SYSTEM SECURITY REASONS**

ENMAX Energy does not own or operate the Distribution System or any other part of the Alberta Interconnected Electric System, and does not guarantee continuous Regulated Rate Service, including an uninterrupted supply of Electricity. ENMAX Energy may discontinue or otherwise curtail, interrupt or reduce the supply of Electricity or Regulated Rate Service whenever ENMAX Energy reasonably determines, or when ENMAX Energy is directed by ENMAX Power, ISO, or any governmental, regulatory or civil authority that such a discontinuation, curtailment, interruption or reduction is necessary to facilitate safety, law enforcement or the construction, installation, operation, maintenance, reliability, repair, replacement or inspection of any Facilities, the Distribution System or the Interconnected Electric System; or due to any other reason, including emergencies, forced outages, potential damage to any Facilities, the Distribution System or any part of the Interconnected Electric System, or Force Majeure. Notwithstanding the foregoing, ENMAX Energy will endeavor to, at all times, provide regular and uninterrupted Regulated Rate Service to the Customer.

**8.4 TAMPERING WITH FACILITIES**

If ENMAX Energy determines that there has been unauthorized use of Electricity or Regulated Rate Service at a Site, including but not limited to tampering with a meter or other Facilities, unauthorized connection or reconnection, or theft, fraud, intentional or unintentional use of Electricity whereby ENMAX Energy is denied full compensation for services provided, ENMAX Energy may request that the Site be Disconnected. The Customer shall be responsible to pay ENMAX Energy all Charges relating to the Electricity that was taken at a Site without authorization.

**8.5 DISCONNECTION OTHER THAN FOR SAFETY REASONS**

- (a) ENMAX Energy may at any time, after having given at least forty-eight (48) hours prior notice to the Customer and without any further notice, initiate Disconnection if:
- (i) the Customer requests the Disconnection;
  - (ii) the Customer's account is in arrears and the Disconnection occurs within the Permissible Disconnection Period;
  - (iii) the Customer is receiving Electricity but fails to provide information or provides incorrect information for billing purpose and the Disconnection will occur during



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the Permissible Disconnection Period; or

(iv) the Premises reasonably appears to be vacant or unoccupied.

(b) A Notice of Disconnection may only be given for the reasons set out in section 8.5(a)(ii) to (iv), must be in writing and may only be given by mail or hand delivery in accordance with Section 10.4(a)(i), (ii) or (iii) and Section 10.4(c). If ENMAX Energy has previously communicated with a Customer by e-mail, text message or telephone, ENMAX Energy must also provide Notice of Disconnection to that Customer by e-mail, text message or telephone, as the case may be.

**8.6 RESTORATION OF SERVICE**

Following a Disconnection, ENMAX Energy may require that the Customer, prior to receiving further Regulated Rate Service, perform any one or more of the following:

- (a) pay any unpaid amounts owing to ENMAX Energy;
- (b) pay a Deposit, or increase an existing Deposit, in such amount, if any, as determined by ENMAX Energy; or
- (c) meet all requirements for Regulated Rate Service set forth in Section 4.1.

**8.7 SERVICE GUARANTEE**

ENMAX Energy must provide a credit of \$150 to any Customer, where, in respect of that Customer, ENMAX Energy has done any of the following:

- (a) requests the Disconnection of the Customer other than as permitted under section 8.5;
- (b) refers the Customer to a Credit Agency when the Customer's account was not in arrears;
- (c) provides written notice of a pending Disconnection other than for the reasons set out in section 8.3 or 8.5; or
- (d) provides written notice of a pending referral to a Credit Agency when the Customer's account is not in arrears.

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**ARTICLE 9    RESPONSIBILITY AND INDEMNITY**

**9.1    REQUIREMENTS IN THE EUA**

In addition to any rights and obligations contained in these RRT Terms and Conditions, ENMAX Energy agrees to comply with its obligations respecting the Regulated Rate Services set out in the EUA, the Regulations and, directives and decisions of the Commission.

ENMAX Energy shall maintain security standards, including control of access to data and other information, consistent with industry standards.

**9.2    USE OF REGULATED RATE SERVICE**

The Customer assumes full responsibility for the proper use of Electricity or Regulated Rate Service provided by ENMAX Energy, including undue interference with any other Customer's use of Regulated Rate Service or any user of the Alberta Interconnected Electric System, and for the condition, installation, suitability and safety of any and all Facilities or any other equipment, wires, cables, devices or appurtenances on the Customer's Premises.

**9.3    DISTRIBUTION TARIFF**

The Customer shall be obligated for the Service Connection to the Site to permit the Customer to receive Regulated Rate Service. The Customer is bound by, and shall comply with, all provisions of the Distribution Tariff applicable to the Customer.

**9.4    FORCE MAJEURE**

If an event or circumstance of Force Majeure occurs that affects ENMAX Energy's ability to provide Regulated Rate Service or any other services provided under these RRT Terms and Conditions, so far as they are affected by the Force Majeure or its consequences, the Regulated Rate Service shall be suspended until the Force Majeure or its consequences are remedied, and for such period thereafter as may reasonably be required to restore the Regulated Rate Service. ENMAX Energy is not liable to the Customer or any other Person in law, equity, contract or tort for any Claim arising from or connected in any way with the amount or lack of notice given by ENMAX Energy of an event of Force Majeure.

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**9.5 LIMITATION OF ENMAX ENERGY'S LIABILITY TO CUSTOMER**

Except for direct physical damage, loss or injury to the Customer or the Customer's property resulting from the breach of these RRT Terms and Conditions by ENMAX Energy, or negligence or willful misconduct of ENMAX Energy or its employees, agents or contractors acting within the scope of their employment, ENMAX Energy shall not be liable to the Customer or any other Person for Claims arising out of or in any way connected with ENMAX Energy's performance under these RRT Terms and Conditions, the provision of Regulated Rate Service or any other services provided under these RRT Terms and Conditions, or any failure, estimated data errors, defect, fluctuation, reduction, de-energization, suspension, curtailment or interruption in the provision of Regulated Rate Service or any other services provided under these RRT Terms and Conditions. ENMAX Energy shall not be liable to the Customer or any other Person for any Claims arising from the Disconnection of a Site pursuant to Sections 8.3, 8.4 or 8.5.

**9.6 INDEMNIFICATION BY CUSTOMER**

The Customer shall indemnify and hold harmless, and at the option of ENMAX Energy, defend ENMAX Energy and its affiliates, contractors, agents, authorized representatives and assigns, and the directors, officers and employees (while those employees are acting within the course and scope of their employment) and each of them (collectively the "**Indemnified Parties**"), from and against all Claims, brought against any of the Indemnified Parties which arise from, result from, or are in any way connected with any act, omission or failure of the Customer arising from, resulting from or in any way connected with these RRT Terms and Conditions or ENMAX Energy's Regulated Rate Tariff, or under any other arrangement or agreement between the Customer and ENMAX Energy, or between the Customer and any third party.

Without limiting the generality of the preceding paragraphs, the Customer shall indemnify and hold harmless, and at the option of ENMAX Energy, defend each of the Indemnified Parties from and against all Claims brought against any of the Indemnified Parties or by any Person, which arise from, result from, or are in any way connected with:

- (a) the presence in or use of Electricity over the Facilities or any wires, cables, devices or other facilities owned, controlled, operated or used by the Customer;
- (b) the failure of the Customer to perform any of the Customer's duties and obligations as set out in these RRT Terms and Conditions;
- (c) the Customer's improper or unauthorized use of Electricity or of electric wires, cables,

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devices or any Facilities; or

(d) the initiation of a Disconnection in accordance with these RRT Terms and Conditions.

Nothing in this section shall be deemed to constitute a waiver of any other rights of redress, which may be available to ENMAX Energy, or to limit in any way any legal recourse which may be open to ENMAX Energy. Any Claim brought by ENMAX Energy for indemnity of a Claim must be filed with the Alberta courts within two (2) years from the date of occurrence of the incident that is subject of the Claim, failing which, the Customer shall have no obligation to indemnify ENMAX Energy hereunder.

**9.7 INDEMNIFICATION BY ENMAX ENERGY**

Subject to Sections 9.5 and 9.8, ENMAX Energy shall indemnify and hold the Customer harmless from and against direct physical loss, injury or damage suffered by the Customer or the Customer's property (including legal fees and disbursements on a full indemnity basis) resulting from the breach of these RRT Terms and Conditions by ENMAX Energy, or negligence or willful misconduct of ENMAX Energy or its employees, agents or contractors acting within the scope of their employment in connection with the provision of Regulated Rate Service. Any Claim brought by the Customer for indemnity of a Claim must be filed with the Alberta courts within two (2) years from the date of occurrence of the incident that is subject of the Claim, failing which, ENMAX Energy shall have no obligation to indemnify the Customer hereunder.

Nothing in this section shall be deemed to constitute a waiver of any other rights of redress, which may be available to the Customer, or to limit in any way any legal recourse which may be open to the Customer.

**9.8 CONSEQUENTIAL LOSS**

ENMAX ENERGY SHALL NOT BE LIABLE TO THE CUSTOMER FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES RESULTING OR ARISING OUT OF PERFORMANCE UNDER THESE RRT TERMS AND CONDITIONS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, LOSS OR DAMAGE RESULTING FROM LOSS OF USE, REVENUE, PROFIT OR OPPORTUNITY WHETHER OR NOT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

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**ARTICLE 10 MISCELLANEOUS**

**10.1 COMPLIANCE WITH APPLICABLE LEGAL AUTHORITIES**

ENMAX Energy and the Customer are subject to, and shall comply with, all existing or future Applicable Law. ENMAX Energy will not violate, directly or indirectly, or become a party to a violation of any requirement of any Applicable Law in order to provide Regulated Rate Service. ENMAX Energy shall obtain and maintain all requisite governmental and regulatory approvals necessary for the provision of Regulated Rate Service to the Customer.

**10.2 NO WAIVER**

The failure of either Party to insist in any one or more instances upon strict performance of any provisions of these RRT Terms and Conditions, or to take advantage of any of its rights hereunder, shall not be construed as a waiver of any such provisions or the relinquishment of any such right or any other right hereunder, which shall remain in full force and effect. No term or condition of these RRT Terms and Conditions shall be deemed to have been waived and no breach excused unless such waiver or consent to excuse is in writing and signed by the Party claimed to have waived or consented to excuse.

**10.3 LAW**

These RRT Terms and Conditions shall be governed by the laws of the Province of Alberta and the federal laws of Canada applicable in the Province of Alberta, without regard to principles of conflicts of law. Any lawsuit arising in connection with these RRT Terms and Conditions shall be brought in the courts of the Province of Alberta.

**10.4 NOTICES**

- (a) Unless otherwise stated in these RRT Terms and Conditions, all notices, demands or requests that ENMAX Energy is required or permitted to give to the Customer may be given by any of the following means:
- (i) by mail to the address on record with ENMAX Energy;
  - (ii) by hand delivery to the address on record with ENMAX Energy;
  - (iii) subject to Sections 10.4(c) and (d), by e-mail to the e-mail address on record with

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ENMAX Energy;

- (iv) subject to Sections 10.4(b), (c) and (d), by text message to the mobile phone number on record with ENMAX Energy; or
  - (v) by telephone call to the phone number on record with ENMAX Energy.
- (b) If ENMAX Energy sends a notice, demand or request to a Customer by text message, ENMAX Energy must also send the notice, demand or request to the Customer by one of the other means of communication set out in Section 10.4(a), unless the Customer has previously expressly consented to receive or has expressly directed ENMAX Energy to provide notices, demands or requests by text message alone.
- (c) If ENMAX Energy sends a notice, demand or request to a Customer by text message or e-mail and the Customer cannot respond to the notice, demand or request by replying to the text message or e-mail, the text message or e-mail from ENMAX Energy must clearly state:
- (i) that replies to the text message or e-mail will not be received by ENMAX Energy; and
  - (ii) how the Customer may respond to the notice, demand or request.
- (d) A Customer has the right to provide notice to ENMAX Energy that the Customer does not wish to receive notices, demands or requests from ENMAX Energy by text message or e-mail, and if the Customer provides this notice, ENMAX Energy must provide all future notices, demands or requests to that Customer by mail, hand delivery or telephone call.
- (e) Subject to Section 10.4(f), unless otherwise stated in these RRT Terms and Conditions, all notices, demands or requests that the Customer is required or permitted to give to ENMAX Energy may be given through the contact methods posted on the ENMAX website: <https://www.enmax.com/contact-us>.
- (f) Customers may also open a new account or move their existing account by clicking on the "MOVING" link at <https://www.enmax.com>, or may make changes to their account by logging into their online account by clicking on the "SIGN IN" link at <https://www.enmax.com>.
- (g) Any notice, demand or request given under this Section is deemed to be effective as follows:
- (i) if by mail, at the end of the fourth (4th) Business Day after mailing;

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- (ii) if delivered by hand, at the time of delivery, with proof of delivery;
- (iii) if by e-mail, text message or other form of instantaneous communication, on the next Business Day, unless ENMAX Energy receives an error message or other indication that transmission of the e-mail, text message or other form of instantaneous communication was not successful; and
- (iv) if by telephone, at the time of the telephone call, where the person answering the telephone identifies himself or herself as the Customer or as a representative of ENMAX Energy, as the case may be.

The Customer or ENMAX Energy may change the address above from time to time by giving written notice of such change to the other party in accordance with this Section. Any notice, demand or request made, given or delivered hereunder is considered delivered; when mailed, at the end of the fourth (4<sup>th</sup>) Business Day after mailing; when hand delivered, at the time of delivery where proof of delivery date is provided.

**10.5 PERSONAL INFORMATION**

ENMAX Energy may use and may collect and disclose personal information to third party service providers (including without limitation in respect of payment processing), collection agencies or to credit bureaus and credit reporting agencies, some of whom may be located outside of Canada, and provided that ENMAX Energy will use such personal information in accordance with these RRT Terms and Conditions and applicable laws, including the *Personal Information Protection Act* (Alberta).