



ENMAX Energy Corporation

Treatment of Unbilled Deferral Recovery Amounts

September 20, 2024

Alberta Utilities Commission

Decision 29271-D02-2024

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Proceeding 29271

September 20, 2024

Published by the:

Alberta Utilities Commission
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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. In this decision, the Alberta Utilities Commission denies ENMAX Energy Corporation's (ENMAX Energy or EEC) request for an increase to its regulated rate option (RRO) electric energy charge intended to recover previously unbilled instalment recovery amounts under the *Regulated Rate Option Stability Act*. However, the legislation and ENMAX Energy's terms and conditions of service still allow ENMAX Energy to recover these amounts through corrections to its previously issued bills, and the Commission approves this approach.

2 Background

2. ENMAX Power is an owner of an electric distribution system in Alberta and provides customers in its service area with electric distribution service. ENMAX Power is required to provide, or make arrangements for the provision of, a regulated rate tariff within its service area. ENMAX Power has arranged for ENMAX Energy to be the regulated rate provider in its service area.

3. ENMAX Energy is required to set RRO rates for each calendar month in accordance with a Commission-approved energy price setting plan (EPSP). Not less than five days before the commencement of each month, ENMAX Energy calculates the RRO rates to be applied in that month and files them with the Commission for acknowledgment.

4. In December 2022, the Government of Alberta enacted the *Regulated Rate Option Stability Act*, in which it prescribed that the maximum rate RRO customers could be billed for energy used between January 1, 2023, and March 31, 2023, was 13.5 cents per kilowatt hour (kWh). The RRO rates for January 2023, February 2023 and March 2023 calculated in accordance with ENMAX Energy's EPSP were higher than 13.5 cents per kWh. In accordance with the *Regulated Rate Option Stability Act*, the resulting revenue shortfalls were included in a deferral account, to be billed to RRO customers as part of their energy used between April 1, 2023, and December 31, 2024.

5. The *Regulated Rate Option Stability Regulation* sets out how RRO providers are to calculate monthly instalments to recover the deferral amounts accrued between January and March 2023. Subject to Commission approval, the RRO provider will increase the electric energy charge for each of the 21 months in the recovery period by the amount that will be sufficient to recover an instalment calculated for that month. Simply, RRO providers calculate energy charges for each month in accordance with the EPSP, and also calculate an instalment amount for each month, which is approved by the Commission and collected through an increase to the electric energy charge. The RRO providers add the increase to the electric energy charge to get the final energy charge as billed.

6. In its September 2024 RRO filing, ENMAX Energy filed a letter seeking acknowledgment of its September 2024 RRO rates, including approval of a recovery instalment amount for September, October and November 2024.

7. In this filing ENMAX Energy also explained that it had identified an error within its billing system that affected bills issued between May 1, 2024, and August 12, 2024. Due to this system error, ENMAX Energy had not increased energy charges in customer bills to recover approved instalment amounts for this time period. In total, ENMAX Energy had failed to bill customers for \$2.9 million.¹ ENMAX Energy proposed to rectify this error by recovering the unbilled amounts over the next three months (September to November 2024).

8. The Commission considered ENMAX Energy's request to be outside the scope of a typical monthly rate filing. As a result, the Commission acknowledged ENMAX Energy's calculated RRO rates for September 2024 in accordance with ENMAX Energy's 2021-2024 EPSP, and approved a recovery instalment for September 2024, but declined to make any findings on the recovery of the unbilled \$2.9 million. The Commission directed ENMAX Energy to provide a written submission to better explain its proposed treatment of the unbilled amounts.²

9. ENMAX Energy submitted its response on September 6, 2024.³ On September 9, the Office of the Utilities Consumer Advocate (UCA) submitted a statement of intent to participate⁴ and a letter stating that ENMAX Energy's request is not in the public interest and should be denied.⁵

3 Summary of error

10. ENMAX Energy explained that on August 12, 2024, it had identified a human error in its billing system that caused its approved deferral recovery instalment amounts to not be billed to customers between May 1, 2024, and August 12, 2024. During this period, ENMAX Energy had billed its customers the EPSP energy charge without any increase for the deferral recovery instalment amount. As a result of this error, ENMAX Energy failed to bill RRO customers for a total of \$2.9 million, comprising the deferral recovery instalment amounts for this period.

11. ENMAX Energy proposed that, in response to this error, it would include the \$2.9 million in its rates for the months of September, October and November 2024. In its written submission, ENMAX Energy clarified that it was requesting to recover the \$2.9 million by obtaining approval of a new deferral recovery instalment amount that would include a portion of the balance of the remaining deferral amounts, and a portion of the previously approved but unbilled amounts.

12. ENMAX Energy characterized the \$2.9 million as a flow-through to repay government loans associated with the January through March 2023 revenue shortfall and stated that collecting this amount does not benefit ENMAX Energy.⁶ ENMAX Energy also submitted that

¹ Exhibit 29271-X0001, 2024-08-26-EEC-Cover letter September 2024 Monthly Energy Charge, PDF page 2.

² Disposition 29271-D01-2024: ENMAX Energy Corporation, Acknowledgment of September 2024 regulated rate option, Proceeding 29271, August 29, 2024, PDF page 2, paragraph 9.

³ Exhibit 29271-X0009, 2024-09-06-EEC Response to Disposition 29271-D01-2024.

⁴ Exhibit 29271-X0011, UCA Statement of intent to participate.

⁵ Exhibit 29271-X0012, UCA Letter to AUC Proceeding 29271, PDF page 1.

⁶ Exhibit 29271-X0001, 2024-08-26-EEC-Cover Letter September 2024 Monthly Energy Charge, PDF page 2.

RRO customers would be no worse off, as the larger recovery instalments in future months were offset by the absence of recovery instalments on bills issued between May and August 2024.

4 Ruling

13. The Commission has considered ENMAX Energy's request to include previously approved, but unbilled, amounts in future recovery instalments. The Commission denies this request. The Commission considers that approving this treatment would be inconsistent with the purpose of the deferral account and contrary to fundamental principles of rate regulation.

14. The Commission approves rates on a prospective basis. The Commission issued its decisions acknowledging ENMAX Energy's May, June, July and August 2024 RRO rates, and approving the inclusion of deferral recovery instalments in ENMAX Energy's rates for those months.

15. ENMAX Energy's failure to collect these approved amounts is a billing error on its part. ENMAX Energy proposes to correct this billing error by including previously approved but unbilled amounts in future months' RRO rates. In other words, ENMAX Energy is asking for the Commission's approval to set future rates designed to recoup past under-recovery. The effect of ENMAX Energy's request is essentially that previously approved recovery instalments be retroactively revised to \$0 so that these amounts can be recovered in future months. This treatment would violate the well-established prohibition on retroactive ratemaking.

16. ENMAX Energy suggested that its proposed treatment is consistent with the purpose for which the deferral account was created. Namely, that ENMAX Energy would recover the entirety of the deferral amount in instalments over the recovery period. ENMAX Energy noted that there is no requirement under the *Regulated Rate Option Stability Act* nor the *Regulated Rate Option Stability Regulation* that instalments be of equal value month to month.

17. The Commission disagrees that this treatment is consistent with the intent of the legislative scheme, or the purpose for which the deferral account was created.

18. The *Regulated Rate Option Stability Act* specifically contemplates that ENMAX Energy "shall increase the electric energy charge on the bills sent to [ENMAX Energy's] regulated rate customers for that calendar month by the amount that will be sufficient to recover the instalment."⁷ ENMAX Energy was given approval to collect recovery instalments, as contemplated by the legislation. The failure to do so results solely from its own billing system error.

19. The Commission recognizes that billing errors do occur. There are mechanisms in place for retailers to correct billing errors, without requiring adjustments to future rates. Specifically, ENMAX Energy's approved terms and conditions for service allow ENMAX Energy to issue corrected bills to customers for billing errors identified within 12 months:

⁷ *Regulated Rate Option Stability Act*, Section 4.4(5).

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).** [emphasis added]

20. Section 17 of the *Regulated Rate Option Regulation* states, “An owner is not entitled to collect from a regulated rate customer any amount undercharged as a result of an incorrect meter reading, incorrect rate calculation, clerical error or other error of any kind that is made more than 12 months before the date of the bill.”

21. Together, these provisions contemplate that ENMAX Energy can issue corrected bills to RRO customers for the months affected by the billing error. Nothing in the *Regulated Rate Option Stability Act* nor in the *Regulated Rate Option Regulation* displaces the operation of these provisions.

22. ENMAX Energy explained that, upon discovering the error, it had considered whether to cancel RRO customers’ bills for May 2024 to August 2024 and rebill customers with an amount that included the deferred amount. The name for this process is cancel/rebill. ENMAX Energy explained that it did not pursue this option because “there is a negative customer experience associated with cancel/rebills” and because cancel/rebills can lead to increased calls to Customer Care.⁸ ENMAX Energy also suggested that there would be greater customer hardship associated with this approach, as it would require the entire amount to be paid at once.⁹

23. The Commission does not accept this explanation. The Commission notes that elsewhere in its submissions, ENMAX Energy describes the cancel/rebill process as “part of normal business operations” and indicates that “cancel/rebills often relate to consumption that occurred several months prior.”¹⁰ ENMAX Energy did not elaborate on why the cancel/rebill process would necessarily require customers to pay corrected amounts all at once (i.e. why ENMAX Energy could not provide for staggered payments). Should ENMAX Energy decide to pursue a cancel/rebill, the Commission expects it to explore options to mitigate the effects of its error on customers.¹¹

24. The purpose of the deferral account is to administer the recovery of deferral amounts, in accordance with a calculation methodology set out in the *Regulated Rate Option Stability Regulation*. The Commission does not consider that it is reasonable to use this deferral account to redress a billing error within ENMAX Energy’s sole control, particularly when the effect would be to increase future RRO rates and given that other mechanisms exist to rebill customers.

⁸ Exhibit 29271-X0009, 2024-09-06-EEC Response to Disposition 29271-D01-2024, PDF page 3.

⁹ Exhibit 29271-X0009, 2024-09-06-EEC Response to Disposition 29271-D01-2024, PDF page 3.

¹⁰ Exhibit 29271-X0009, 2024-09-06-EEC Response to Disposition 29271-D01-2024, PDF page 5.

¹¹ This could include seeking an order from the Commission to depart from ENMAX Energy’s approved terms and conditions, should ENMAX Energy consider this necessary to mitigate effects on customers.

25. The Commission is not privy to the details of ENMAX Energy's loan agreement with the Government of Alberta for the deferred amounts from January through March 2023. However, the Commission assumes that the loan agreement requires payment of the full loan amount, regardless of any billing errors on ENMAX Energy's part. Given that ENMAX Energy has options available to recover unbilled amounts without requiring changes to future rates, the Commission expects that taxpayers will not be left to pay any portion of the loan due to this error.

Dated on September 20, 2024.

Alberta Utilities Commission

(original signed by)

Carolyn Dahl Rees
Chair

Appendix 1 – Proceeding participants

Name of organization (abbreviation) Company name of counsel or representative
ENMAX Energy Corporation (ENMAX Energy or EEC)
Office of the Utilities Consumer Advocate (UCA)

Alberta Utilities Commission
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Commission staff M. Anderson (Commission counsel) C. Arnot R. Cassidy