

# **Market Surveillance Administrator**

**Re: ENMAX Power Corporation**

February 28, 2005

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# 1 Introduction

## 1.1 Introduction and Background

Grant Thornton LLP was retained by the Market Surveillance Administrator (“MSA”) by letter dated October 4, 2004, to test the compliance of ENMAX Power Corporation (“EPC”) with certain sections of the Code of Conduct Regulation (the “Code”) under the Electric Utilities Act of Alberta (the “Act”) for the period January 1, 2004 to June 30, 2004 (the “Stub Period”). The MSA was established under the *Electric Utilities Act* with a mandate of surveillance and investigation to ensure a fair, efficient, and openly competitive market.

It is understood by Grant Thornton LLP and the MSA that compliance with the Code is the responsibility of EPC. This includes ensuring that there are appropriate systems, procedures and activities (i.e. controls) in place which are designed and undertaken to be in compliance with the Code. The Code also requires EPC to prepare and adhere to a Compliance Plan approved by the MSA. This report does not provide an opinion on the appropriateness, sufficiency or completeness of EPC’s compliance with the Code or with their Compliance Plan but presents findings resulting from conducting certain procedures to test the controls that EPC had in place during the Stub Period to comply with certain sections of the Code.

EPC owns, operates and maintains the high voltage transmission wires that distribute electricity to all homes and businesses in and around Calgary. EPC conducts its own site administration, meter data management, load settlement, distribution tariff billing and revenue metering inventory management for the Calgary Settlement zone.

EPC has appointed Enmax Energy Corporation (“EEC”) as its Regulated Rate Provider to handle all Owner functions including, but not limited to, billing and customer care, under its Regulated Rate Tariff and to provide Regulated Electricity Services in the Calgary Settlement zone. EEC is also the supplier of default supply services for EPC. EPC has entered into contracts to perform a variety of services in other settlement zones. These contracts are held with the City of Lethbridge, the City of Red Deer, and the Association of Municipal Power Systems, which is comprised of the Town of Fort Macleod, the Town of Cardston and the Municipality of Crowsnest Pass.

During the Stub Period, the customer care elements of EPC's operation were contracted out to Accenture Business Services – Utilities Customer Care Inc., an unaffiliated third party contractor.

Since EPC is the wire owner, the procedures performed in this review were limited to the release of customer historical load information (to affiliated and non-affiliated retailers), training, and review of internal and external compliance materials. In particular, we focused our procedures on the release of this historical customer information to its affiliated retailer, EEC, to ensure that they were operating in accordance with the Code. Another report has been prepared regarding EEC's compliance with the Code and much of the testing affected both entities; however, this report has been prepared as an independent report to the one prepared for EEC.

During the Stub Period, EPC had not received full approval for their compliance plan filed with the MSA; however, they were granted interim approval until June 1, 2004. EPC received full compliance plan approval from the MSA on June 25, 2004 but was therefore not in compliance with the Code for most of the month of June 2004.

## **1.2 Definitions**

Any specific terms that are used in this report have the same meanings that are defined in the Code.

## **1.3 Scope of our Engagement**

The MSA asked Grant Thornton LLP to focus on and we designed our testing around the following sections of the Code:

- Section 10 dealing with the disclosure of Customer Information with consent by Owners or Retailers;
- Section 11 dealing with the disclosure of Customer Information to two or more Retailers by an Owner or Regulated Rate Provider;
- Section 12 dealing with the conditions for the disclosure of Customer Information by an Owner or Regulated Rate Provider;
- Section 13 dealing with the disclosure of a customer's historical energy consumption by an Owner or Regulated Rate Provider;

- Section 14 dealing with the provision of aggregated Customer Information by an Owner or Regulated Rate Provider;
- Section 15 dealing with the equal treatment of Retailers by Owners;
- Section 20 dealing with the non-disclosure of Customer Information for marketing or sales purposes between an Owner and an Affiliated Retailer; and,
- Section 34 dealing with compliance reporting.

1.3.1 Available Information/Documents

We reviewed and relied on the following in preparing our report:

- (1) The following individuals were interviewed to gain an understanding of the policies and procedures in place during the Stub Period. The representations made by these individuals were relied on in completing this engagement:
  - a. Elizabeth L. Bhar – Director, Compliance;
  - b. Peter Graham – Team Lead, Business Integration Wholesale Services (EPC);
  - c. Kevin Fedun – Manager Business Excellence (EEC);
  - d. Mike Cooper – Manager, Client Services Wholesale Services (EPC);
  - e. Vicki Herd – Finance Department (EPC);
  - f. Rachel Beauregard – Customer Data & Enrollment Coordinator Customer Contract Fulfillment (EEC);
  - g. Jennifer French – Channel Manager Mass Market Sales (EEC); and,
  - h. Nadine Bodgener – Client Service Advisor (EPC).
  - i. The EPC Compliance Plan filed with the MSA on June 25, 2004;

- (2) Monthly Compliance Reports EPC filed with the MSA during the Stub Period;
- (3) The EPC internal compliance reporting working papers including emails and the EPC Quarterly Code of Compliance Report Questionnaire;
- (4) EPC's 2004 Second and Third Quarter Code of Conduct Compliance Reports filed with the MSA, in addition to the spreadsheet disclosed in error that resulted in the instance of non-compliance with the Code of Conduct;
- (5) The training material used to teach new and existing employees about the Code;
- (6) The list of new employees employed during the Stub Period;
- (7) The list of all employees who came into contact with customers or retailers during the Stub Period;
- (8) The training logs of which employees attended the various Code of Conduct training sessions during the period;
- (9) EPC's definition of "marketing";
- (10) All emails sent and received from trac@enmax.com;
- (11) EPC Onyx work notes on the various contracts selected for testing;
- (12) The consent forms for the disclosure of customer information selected in the sample;
- (13) Information contained at www.enmax.com; and,
- (14) The management representation letter signed by Elizabeth Bhar Director, Compliance and Peter Graham Team Leader, Business Integration Wholesale Services dated December 8, 2004.

1.3.2 Scope Limitations

We encountered the following limitations in conducting our analysis:

- (1) During the first quarter of 2004, EPC's systems for communicating Code violations were informal and undocumented. This has limited our ability to gain sufficient understanding of the compliance reporting system in place during the first three months of the Stub Period thereby making it difficult to determine if all instances of non-compliance were reported to the MSA. Subsequent to the first quarter, EPC instituted formal, documented compliance reporting.
- (2) Due to the nature of the engagement, we have been unable to assess the completeness of the information reviewed and relied upon. In other words, we have been unable to ensure that the population from which we selected our samples for testing purposes was complete.

## 2 Summary of Findings

Based on the procedures conducted, our summary of significant findings are as follows:

- The procedures and systems used by EPC to comply with the Code during the Stub Period were well documented, except for procedures for reporting instances of non-compliance to the Director, Compliance during the first quarter of 2004. The method used during this period was simply an email sent to the Manager, Client Services Wholesale Services (EPC), Manager Interaffiliate Code of Conduct (EPC), and Manager First Line Response Corporate Communications by the Director, Compliance to ask if any instances of non-compliance resulted during the period. Subsequent to the first quarter of 2004, more formal procedures existed. Consequently, we were not able to draw definitive conclusions with respect to the completeness of disclosure of noncompliance with the Code in all instances, particularly during the first quarter of 2004;
- EPC's Authorization to Release Load Data End Use Customer/non-retailer form ("customer consent form") does not state the period of time that the consent is in effect. Therefore, it does not appear to be in compliance with Section 10(2) (b) of the Code;
- EPC's document, "Authorization to Release Load Data Retailer Specific" ("representation consent form"), does not appear to conform to the requirements under Section 10(2) (b) of the Code;
- The representation consent form contains a statement indicating that EPC relies on the retailer to have obtained consent as follows:

"By submitting this request it is assumed that the retailer has the end-use customers' written consent, as per the appropriate Wires Owners current and approved Terms and Conditions."

Therefore, if EEC requests information from EPC with a representation consent form, it is assumed by EPC that EEC has received written consent from the customer;



- Between June 1 and June 25, 2004, EPC was not in compliance with Section 31 of the Code as they did not have a compliance plan approved by the MSA until June 25, 2004 and the interim approval of their draft compliance plan had expired on June 1, 2004. This matter was included in EPC's compliance reporting to the MSA;
- We found no other apparent instances of Code violations at EPC during the Stub Period; and,
- We received good cooperation from EPC in the course of conducting our engagement and were not restricted in gaining access to information other than as noted in the scope limitations noted above.

Based on our findings, we have the following recommendations:

- Because of the affiliated nature of the relationship between EPC and EEC and the risk of, or at least the perception of, favorable treatment of EEC by EPC, EPC should no longer accept only the Authorization to Release Load Data Retailer Specific from EEC staff. Instead, all requests for customer information made by the Commercial and Industrial sales group of EEC, other than those requests allowed under the provisions of Section 10 of the Code, should be accompanied by the signed Authorization to Release Load Data End Use Customer/non-retailer form;
- As the "Authorization to Release Load Data End Use Customer/non-retailer" form does not contain a field that states the period of time that the consent is in effect, we suggest that EPC either amend this form to include a field the customer completes to specify the period of time the consent is in effect or modify the form to indicate that the request is only in effect for the particular request and any further requests for information will require an additional consent form; and,
- As the "Authorization to Release Load Data Retailer Specific" form does not contain a field that states the period of time that the consent is in effect, we suggest that EPC either amend this form to include a field the retailer completes to specify the period of time the consent is in effect or modify the form to indicate that the request is only in effect for the particular request and any further requests for information will require an additional consent form.

### 3 Restrictions and Limitations

This Report was prepared for the Market Surveillance Administrator in relation to the testing of the compliance of Enmax Power Corporation with certain sections of the Code of Conduct Regulation under the Electric Utilities Act of Alberta for the period January 1, 2004 to June 30, 2004. This report is not to be used for any other purpose and we specifically disclaim any responsibility for losses or damages incurred through use of this Report for a purpose other than as described in this paragraph. It should not be reproduced in whole or in part without our express written permission, other than as required by MSA in relation to compliance matters.

We reserve the right, but will be under no obligation, to review and/or revise the contents of this Report in light of information which becomes known to us after the date of this Report.

Yours truly,

**GRANT THORNTON LLP**

A handwritten signature in black ink that reads "Grant Thornton LLP". The signature is written in a cursive, flowing style.

David J. Elzinga, CA-IFA, CFE  
Partner