

Market Surveillance Administrator

Re: ENMAX Energy 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 Energy Corporation (“EEC”) 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 EEC. 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 EEC 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 EEC’s compliance with the Code or with their Compliance Plan but presents findings resulting from conducting certain procedures to test the controls that EEC had in place during the Stub Period to comply with certain sections of the Code.

EEC provides electricity and natural gas to residential and business customers across Alberta. On behalf of Enmax Power Corporation (“EPC”), EEC is the provider of Regulated Electricity Services to eligible Customers in three of four of Alberta’s largest communities – Calgary, Red Deer and Lethbridge – as well as the Crowsnest Pass, Fort Macleod and Cardston in Southern Alberta. In addition, EEC provides retail electricity services to large commercial and industrial customers. EPC has also appointed 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.

During the Stub Period, the billing and customer care elements of EEC's operation was contracted out to Accenture Business Services – Utilities Customer Care Inc. (“ABSU”), an unaffiliated third party contractor. EEC also contracts with third party sales and marketing agents (i.e. Cydcor Limited).

Since EEC is the affiliated retailer of EPC, the procedures performed in this review were similar in nature to those performed in EPC. In particular, procedures performed on the release of customer historical information, and training used the same information since the processes and materials used were consistent between both entities. A separate report has been prepared regarding EPC's compliance with the Code and while much of the testing affected both entities, this has been prepared as an independent report to the one prepared for EPC.

During the Stub Period, EEC had not received full approval for their compliance plan filed with the MSA; however, they were granted interim approval until June 1, 2004. EEC received full compliance plan approval from the MSA on June 25, 2004 and 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. Rob Mackin – Client Relations Manager Service Provider Management (EEC);
 - f. Rachel Beaugard – 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).
- (2) The EEC Compliance Plan filed with the MSA on June 25, 2004;
- (3) Monthly Compliance Reports EEC filed with the MSA during the Stub Period;
- (4) The EEC internal compliance reporting working papers including emails and the EEC Quarterly Code of Compliance Report Questionnaire;
- (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 training sessions during the period;
- (9) EEC's definition of "marketing";
- (10) All emails sent to trac@enmax.com;
- (11) EEC 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 Kevin Fedun, Manager Business Excellence dated December 8, 2004.

1.3.2 Scope Limitations

We encountered the following limitations in conducting our analysis:

- (1) During the first quarter of the 2004, EEC'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, EEC 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 is as follows:

- The procedures and systems used by EEC to comply with the Code during the Stub Period were well documented, except for the 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 Segment Manager, Marketing (EEC), Project Manager, Customer Advocacy (ABSU), Manager Business Excellence (EEC), and Client Relations Manager Service Provider Management (EEC) 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;
- We were informed of a recent instance where an EEC Commercial and Industrial sales agent had attempted to obtain historical customer information from ABSU for purposes of proposing on a contract with the Calgary Housing Authority without having proper customer consent; however, the large account customer care (“LACC”) representative at ABSU followed procedures to prevent this activity which would otherwise have resulted in a Code violation. We were also informed that this has happened on several occasions in the past;
- Between June 1 and June 25, 2004, EEC 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 EEC’s compliance reporting to the MSA;
- We found no other apparent instances of Code violations at EEC during the Stub Period; and,
- We received good cooperation from EEC in the course of conducting our engagement and were not restricted in gaining access to information other than as noted in the scope limitations above.

Based on our findings, we have the following recommendations:

- As a result of the attempts by EEC Commercial and Industrial sales agent to obtain historical customer information without having proper customer consent, we recommend the following:
 - All the employees in the Commercial and Industrial sales group be retrained on the Code; and,
 - The training should identify what constitutes proper customer consent; stress the importance of obtaining proper customer consent prior to requesting information and the potential consequences to EEC and the individual if not obtained.

3 Restrictions and Limitations

This report was prepared for the Market Surveillance Administrator in relation to the testing of the compliance of Enmax Energy 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

The image shows a handwritten signature in cursive script that reads "Grant Thornton LLP". The signature is written in black ink and is positioned below the printed name of the firm.

David J. Elzinga, CA-IFA, CFE
Partner