



# ENERGY REGULATORY REPORT

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## ALBERTA UTILITIES COMMISSION

### **EPCOR Energy Alberta GP Inc. 2023-2024 Non-Energy Regulated Rate Tariff, AUC Decision 28457-D02-2024**

*Electricity – Rates*

#### Application

EPCOR Energy Alberta GP Inc.’s (“EEA”) filed an application requesting approval of its 2023-2025 regulated rate tariff (“RRT”) non-energy charges, price schedules and miscellaneous fees, RRT terms and conditions of service, and the establishment of deferral accounts for certain cost items. Following the commencement of this proceeding, the parties entered negotiations and agreed to a negotiated settlement agreement (“NSA”), which was submitted to the Alberta Utilities Commission (“AUC”) for approval. The NSA settled all aspects of the application except the matter of EEA’s recovery of its applied-for non-energy credit costs.

#### Decision

The AUC approved the NSA, as filed, and denied one revenue requirement item that was not subject to the NSA, which was the credit costs for 2023-2024.

#### Pertinent Issues

##### *The NSA*

In making its determination if the NSA should be accepted or rejected in its entirety, the AUC considered whether:

- the negotiated settlement process (“NSP”) was procedurally fair with respect to both adequate notice and the NSP itself;
- the NSA resulted in rates, and terms and conditions that are just and reasonable; and
- the settlement was patently against the public interest or contrary to law.

The AUC was satisfied that the NSP was fair and that the procedural requirements set out in *AUC Rule 018: Rules on Negotiated Settlements* (“Rule 018”) were met. The AUC found that the NSA, taken as a whole, was not patently against the public interest or contrary to law and that the NSA resulted in rates and, terms and conditions that were just and reasonable. Accordingly, the AUC approved the NSA as filed.

##### *The Credit Costs*

EEA is the regulated rate provider in FortisAlberta Inc.’s (“Fortis”) service territory under the RRO Arrangement Agreement between Fortis and EEA, which was approved by the AUC in *Decision 24839-D01-2019*. EEA submitted that it was required to provide financial security to Fortis under the *Electric Utilities Act* (“EUA”) and Fortis’ terms and conditions of service (“T&Cs”). As a result, EEA applied for



approval of its credit costs for providing financial security to Fortis. EEA's position was that Fortis requires EEA to provide security under a commercial arrangement, adding that financial security is commonly required by parties to commercial arrangements.

The AUC agreed with EEA that the legislative framework does not expressly prohibit distribution system owners ("DFOs"), and Fortis in this case, from requiring financial security from regulated rate option ("RRO") providers. The AUC also agreed that Fortis and EEA may choose to enter into a commercial arrangement whereby EEA may be required to provide financial security to Fortis. However, whether costs associated with any such arrangement should be recovered through EEA's RRT is a matter for the AUC's determination.

The AUC, citing its previous decision, concluded that s 8 of the *Distribution Tariff Regulation* ("DTR") requires a security deposit from retailers and not RRO providers, such as EEA. According to the AUC, the security deposit required by Fortis did not conform with the plain meaning of a retailer in the *EUA* and the financial security provisions that apply to retailers pursuant to s 8 of the *DTR*.

The AUC was satisfied that its prior decision was correct when it found that the requirement imposed by Fortis on EEA, as an RRO provider, to pay security was inconsistent with the legislative scheme, in general, and s 8 of the *DTR*, in particular.

The AUC noted that there was no specific legislative provision in either the *DTR* or the *Regulated Rate Option Regulation* ("RROR") requiring RRO providers

### **AUC re EEA 2023-2024 Non-Energy Regulated Rate Tariff**

to give financial security to distribution companies and that the only requirement with respect to the RRT is found in s 6(1)(a) in the *RROR*, which requires the AUC to provide the owner with a reasonable opportunity to recover the prudent costs and expenses.

With regard to the prior approval of the RRO Arrangement Agreement in *Decision 24839-D01-2019*, the AUC noted that it approved the agreement pursuant to s 113 of the *EUA* as being in the public interest. In addition, the requirement for EEA to provide security to Fortis was not brought to the AUC's attention and did not receive any scrutiny from parties in that proceeding. In the AUC's view, the parties had an obligation to bring the inclusion of the security requirement in the RRO Arrangement Agreement to the attention of the AUC in Proceeding 24839, which they failed to do so. Consequently, it is unclear whether the AUC would have expressly approved at that time the security requirement included in the RRO Arrangement Agreement.

The AUC was not persuaded that EEA's claim for credit costs for providing financial security to Fortis should be approved. The AUC found that the credit costs claimed by EEA were not reasonable or prudent costs under s 6(1)(a) of the *RROR*. The AUC denied EEA's claim for credit costs associated with providing Fortis financial security and directed EEA, in the compliance filing to this decision, to exclude any credit costs incurred as a result of posting security with Fortis. The AUC also directed Fortis to modify its T&Cs and not require an RRO provider to post security based on requirements applicable to retailers pursuant to the *DTR*.