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ALBERTA UTILITIES COMMISSION

Harmony Advanced Water Systems Corporation EPCOR Alberta Utilities Holdings Inc. Share Transfer Application, AUC Decision 29083-D01- 2024

Share Transfer – No-Harm Test

Application

Harmony Advanced Water Systems Corporation (“HAWSCO”) filed an application with the Alberta Utilities Commission (“AUC”) requesting the AUC to authorize pursuant to s 102(1) of the *Public Utilities Act* (“PUA”) the transfer on HAWSCO’s books all common shares of HAWSCO from Harmony Developments Inc. (“HDI”) to EPCOR Alberta Utilities Holdings Inc. (“EPCOR Holdings”). EPCOR Holdings filed an application requesting that the AUC confirm that it will request that the Lieutenant Governor in Council (“GIC”) add EPCOR Holdings and EPCOR Harmony to the *Public Utilities Designation Regulation* (“PUDR”) as designated owners of a public utility and to require EPCOR Holdings and EPCOR Harmony to conduct themselves in the meantime as if they had been so designated.

Decision

The AUC approved the applications and authorized the requested transfer, deemed EPCOR Holdings and EPCOR Harmony subject to ss 101 and 102 of the PUA, and confirmed that it will request the GIC to add EPCOR Holdings and EPCOR Harmony to the PUDR as designated owners of a public utility.

Pertinent Issues

Background

HAWSCO owns and operates a water utility located in Rocky View County, Alberta, and is a wholly owned subsidiary of HDI. EPCOR Holdings is a directly and wholly owned subsidiary of EPCOR Utilities Inc. (“EUI”). EPCOR Holdings and HDI entered into a share purchase agreement, under which EPCOR Holdings would acquire 100 per cent of HAWSCO’s water, stormwater and wastewater business for \$20 million (“Acquisition”). The parties anticipated that HAWSCO’s name would change to EPCOR Harmony following the completion of the Acquisition.

AUC Decision

The central question for the AUC was whether the water utility customers would be harmed by the Acquisition, which is referred to as the “no-harm test.” Under this test, the AUC weighs the potential positive and negative impacts of the Acquisition to determine whether the balance favours or leaves the customers no worse off, considering the circumstances. The no-harm test considers both the financial and service level impacts of the proposed Acquisition on the customers of the utility. If the AUC identifies harm, it then considers whether the harm may be effectively mitigated through approval conditions.

The AUC found no evidence of a harmful impact from the Acquisition on the rates charged to the water utility



AUC re Share Transfer

customers. The AUC found that no added operational risk would occur if the Acquisition proceeded and that EUI adequately demonstrated the necessary experience, financial strength, and commitment to utility service. The AUC accepted that there would be no change to its regulatory authority over the water utility and the entities carrying out the business, and that the Acquisition will not hinder the AUC's oversight of the water utility's affiliate relationships and transactions.

The AUC determined that the Acquisition would not result in any degradation of management or operational expertise of the water utility. The AUC was also satisfied that the Acquisition would not have a harmful effect on the utility's day-to-day operation.

The AUC considered that the protection of HAWSCO's assets from the creditors of EUI, EPCOR Holdings or any of its affiliates was important and included conditions for EPCOR Holdings to ensure this protection. The AUC directed EPCOR Holdings to include in any future credit agreements or amendments to current credit agreements wording that exempts the assets of HAWSCO/EPCOR Harmony from being pledged as security unless EPCOR Holdings receives permission from the AUC.

Based on the above and applying the no-harm test, the AUC approved the proposed transaction.