



**EPCOR Energy Alberta GP Inc.
ENMAX Energy Corporation
Direct Energy Regulated Services**

**2025-2028 Rate of Last Resort Energy Price Setting Plan
Application Negotiated Settlement Agreement**

February 12, 2025

Alberta Utilities Commission

Decision 29204-D02-2025

EPCOR Energy Alberta GP Inc.

ENMAX Energy Corporation

Direct Energy Regulated Services

2025-2028 Rate of Last Resort Energy Price Setting Plan Application Negotiated Settlement Agreement

Proceeding 29204

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1 Decision summary

1. EPCOR Energy Alberta GP Inc. (EEA), ENMAX Energy Corporation (EEC), and Direct Energy Regulated Services (DERS) (collectively, the rate of last resort (ROLR) Providers) applied for Alberta Utilities Commission approval of its 2025-2028 ROLR energy price setting plans (EPSPs), terms and conditions of service (T&Cs), and schedules. This application made by the ROLR Providers is the first of its kind under the new legislative scheme set out under the *Rate of Last Resort Regulation (ROLR Regulation)*.

2. The ROLR Providers reached a Negotiated Settlement Agreement (NSA) with one intervening customer group, the Office of the Utilities Consumer Advocate (UCA), regarding all matters in the application. The UCA has a legislated mandate to represent the interests of residential, farm and small business consumers of electricity in Alberta in proceedings before the Commission.¹ The other intervening customer group, the Consumers' Coalition of Alberta (CCA), took no position. The CCA is a coalition of the Alberta Consumers' Association and the Alberta Council on Aging.

3. For the reasons set out in this decision, the Commission approves the NSA and the negotiated settlement amending agreement² with respect to the 2025-2026 ROLR rates, the 2025-2028 EPSPs, the T&Cs, and the appendixes and the attachment³ to the NSA. Accordingly, the updated price schedules for EEA and the updated fee schedule and rate schedules for EEC are approved as well.

4. Each EPSP sets out the methodology and calculations that the ROLR Providers will follow to determine their ROLR rates for the supply of electric energy to their regulated rate customers, from January 2025 to December 2028. In accordance with Section 11 of the *ROLR Regulation*, each EPSP produces a ROLR rate that is calculated based on regulated rate customer load forecasts and electricity market prices within the price-setting period. It also includes a 0.1 cents per kilowatt hour (cents/kWh) customer awareness surcharge to support initiatives led by the UCA to inform regulated rate customers about their electricity service options.

5. The ROLR rate also includes a risk premium to reflect the incremental risks of providing electricity services in accordance with regulated rate tariff requirements under the *ROLR*

¹ *Government Organization Act*, Schedule 13.1, Section 3(a).

² The NSA and the negotiated settlement amending agreement should be read in conjunction with each other because the negotiated settlement amending agreement includes amendments to the NSA.

³ Confidential Exhibit 29204-X0311-C, Attachment 1 - Confidential 2025-2028 - RoLR Pricing Model, November 1, 2024.

Regulation as compared to those risks that were provided for under the *Regulated Rate Option Regulation*. As one example, the ROLR rate is now fixed for two years, and may only be adjusted by a maximum of 10 per cent after the end of the first two-year term.

6. The Market Surveillance Administrator (MSA) prepared a determination report, indicating whether the applied-for EPSPs comply with the requirements for a fair, efficient and openly competitive (FEOC) electricity market. The MSA found that the EPSPs supported open competition by, in part, producing electricity prices using prices established in an openly competitive market.

7. As a result of this decision, the calculated rates for the first two-year term are 12.01 cents/kWh for EEA, 12.06 cents/kWh for EEC, and 12.02 cents/kWh for DERS. These rates will be in effect from January 1, 2025, to December 31, 2026, unless it is subsequently determined that they need to be adjusted through a rate reopener proceeding initiated by the Commission in accordance with the *ROLR Regulation*.

8. For the second two-year term, the ROLR rates, effective January 1, 2027, to December 31, 2028, will be calculated in accordance with the respective EPSPs and must be filed with the Commission at least 30 days before January 1, 2027.

2 Background

9. Under the *ROLR Regulation*, eligible customers have a choice when it comes to purchasing electricity. They can purchase their electricity from competitive, non-regulated energy retailers. Alternatively, if they do not or cannot choose a competitive retailer, then they are automatically enrolled on the regulated rate tariff, known as the ROLR, with an AUC-regulated provider.

10. Currently, there are three AUC-regulated ROLR Providers:⁴

- EEA provides ROLR service to eligible customers in EPCOR Distribution & Transmission Inc.'s and FortisAlberta Inc.'s distribution service areas.
- EEC provides ROLR service to eligible customers in ENMAX Power Corporation's distribution service area.
- DERS provides ROLR service to eligible customers in ATCO Electric Ltd.'s distribution service area.

11. Previously, the ROLR was known as the regulated rate option (RRO) and was administered under the *Regulated Rate Option Regulation*. The RRO was set each month based on forward market prices for electric energy in Alberta. In 2024, the term "regulated rate option"

⁴ An owner of an electric distribution system must act as the ROLR provider to eligible customers. An owner may make arrangements under which other persons perform any or all of the duties or functions of the owner under the *Electric Utilities Act* and associated regulations.

was changed by legislative amendment to “rate of last resort.”⁵ The Government of Alberta announced its intention to make new regulations⁶ to come into effect on January 1, 2025, that would materially impact the regulated rate tariff. Notably, the ROLR would become a fixed default rate for two years, effective January 1, 2025, with a 10 per cent rate adjustment cap at the end of the two-year term for the subsequent two-year term.

12. On July 25, 2024, the Commission issued Bulletin 2024-14,⁷ directing each of the three AUC-regulated ROLR Providers to negotiate the terms of their EPSPs and the amendments required to their T&Cs with customer representatives through a negotiated settlement process (NSP) under Rule 018: *Rules on Negotiated Settlements*. The ROLR Providers were also directed to file the resulting settlements, if any, with the Commission for approval.

13. On September 27, 2024, the *Regulated Rate Option Amendment Regulation* revised the *Regulated Rate Option Regulation* (now named the *Rate of Last Resort Regulation*) to establish the new legal requirements for the ROLR. This included setting out the requirements for the ROLR rates, the length of each term, and the matters that the Commission must have regard for when considering an application in approving a regulated rate tariff.

14. On October 2, 2024, the Commission directed the ROLR Providers to file either an NSA or a joint application by October 15, 2024. Initially, in the absence of an approved NSA, for ROLR rates under the *ROLR Regulation* to take effect on January 1, 2025, the Commission would have been required to issue a decision on a joint application by the end of November 2024.

15. The Commission issued notice of application on October 8, 2024.⁸ The Commission granted standing to the CCA and the UCA.

16. Initially, the ROLR Providers were not successful in their negotiations with the CCA and the UCA, and, on October 15, 2024, they filed a joint EPSP application. The joint application included an MSA determination report, as required under the *ROLR Regulation*.⁹

17. The Commission established a process that included an opportunity for the ROLR Providers to respond to the MSA determination report, intervener evidence, Commission information requests (IRs), an oral hearing, and oral argument and reply argument.

18. On October 29, 2024, the UCA requested to withdraw the evidence of its independent witness from the record. The Commission denied the request, consistent with past practice, and allowed the unsponsored evidence to remain on the record since it was relevant; the Commission

⁵ *Utilities Affordability Statutes Amendment Act, 2024*.

⁶ The “new regulations” is in reference to the *Regulated Rate Option Amendment Regulation* that revised the *Regulated Rate Option Regulation* (now named the *Rate of Last Resort Regulation*) to establish the new legal requirements for the ROLR.

⁷ Bulletin 2024-14, Process for implementing the Rate of Last Resort, July 25, 2024.

⁸ Exhibit 29204-X0022, Notice of application - 2025 rate of last resort energy price setting plan, October 8, 2024.

⁹ *ROLR Regulation*, Section 3(2)(b).

typically decides the appropriate weight to give to unsponsored evidence when making its decision.¹⁰

19. At the commencement of the oral hearing on October 30, 2024, the ROLR Providers advised the Commission that an NSA had been reached with the UCA, in principle, resolving the entirety of the joint EPSP application. The Commission closed the hearing and directed the ROLR Providers to file the NSA. The CCA was still considering its position at that time.

20. On November 1, 2024, the ROLR Providers filed the NSA for approval, to which the ROLR Providers and the UCA were signatories. The CCA was not a party to the final NSA and advised the Commission that it neither supported nor opposed the NSA.¹¹

21. The Commission established a further process that involved two rounds of IRs on the NSA and confirmation from interveners as to the fairness of the NSP. As a result of the IRs, a negotiated settlement amending agreement, updated EPSPs and T&Cs were filed. There were no substantive process matters after this filing.

22. The remainder of this decision comprises two main sections: Section 3 addresses matters related to the NSA, and Section 4 addresses other matters that were applied for or arose during the course of the proceeding.

3 Negotiated settlement

3.1 Requirements governing negotiated settlements

23. Sections 134 and 135 of the *Electric Utilities Act* authorize the Commission, with some limitations, to approve a negotiated settlement. For example, if the parties negotiate a settlement on the basis that the settlement is contingent on the Commission accepting the entire settlement, as it was in this case, the Commission must either approve the entire settlement or reject it.

24. Section 132(1)(a) of that act authorizes the Commission to establish rules, practices and procedures that facilitate negotiated settlements. Rule 018 outlines the requirements in respect of negotiated settlement proceedings of the Commission respecting rates and tariffs.

25. Section 4(1) of Rule 018 stipulates that an applicant(s) may only commence negotiations with the approval of the Commission. In Bulletin 2024-14, the Commission determined that Section 4(1) of Rule 018 did not apply. As a result, parties could enter negotiations as soon as possible without approval from the Commission.

26. Section 6 of Rule 018 sets out requirements for the contents of a negotiated settlement application and places the onus on the applicant(s) to provide sufficient evidence to support the application and to enable the Commission in understanding and assessing the agreement. Section 7 outlines the requirements for the Commission's assessment of the NSA.

¹⁰ Exhibit 29204-X0283, AUC letter - Hearing schedule and ruling on UCA's request for leave to withdraw evidence, October 29, 2024.

¹¹ Confidential Exhibit 29204-X0301-C, CCA letter to AUC November 1 2024, PDF page 6, paragraph 23.

27. The ROLR Providers and the UCA are signatories to the NSA. The CCA advised that it neither supports nor opposes the NSA.¹² The Commission may consider settlements that are not unanimous and always retains its authority to accept or reject a settlement (see *ATCO Electric Limited v Alberta (Energy and Utilities Board)* (ATCO Electric decision)).^{13 14} In this proceeding, the Commission is prepared to consider the NSA between the ROLR Providers and the UCA. Notably, the UCA has a legislated mandate to represent the interests of residential, farm and small business consumers of electricity in Alberta in proceedings before the Commission.

28. In assessing a settlement, the Commission is aware that, while one or more of the interested parties to a settlement may represent certain stakeholders, none will represent all stakeholders. Further, as noted in the ATCO Electric decision, "... even a broad range of Interveners will not necessarily translate into a wide spectrum of positions since parties may make trade-offs which leave other issues unresolved, unaddressed or compromised."¹⁵ Consequently, the NSP and NSA do not replace a full and informed review by the Commission as to what is in the overall public interest.

29. The Commission has proceeded on the basis that the NSA satisfies the ROLR Providers' interests and only assessed the NSA from the point of view of all ratepayers. This approach is also consistent with the ATCO Electric decision.¹⁶

30. In making its determination on whether the NSA should be accepted or rejected in its entirety, the Commission has considered the statutory requirements, Rule 018 and the relevant case law.¹⁷

31. Performing this assessment requires the Commission to review both the individual provisions of the NSA and the NSA as a whole.

32. The Commission's findings on the NSP and on the specific provisions of the NSA are discussed below.

3.2 Review of the negotiated settlement process

33. The first factor that the Commission considers is whether the NSP was fair.

¹² Confidential Exhibit 29204-X0301-C, CCA letter to AUC November 1 2024, PDF page 6, paragraph 23.

¹³ *ATCO Electric Limited v Alberta (Energy and Utilities Board)*, 2004 ABCA 215, paragraphs 137-139.

¹⁴ See also Decision 26617-D02-2022: ENMAX Power Corporation, EPCOR Distribution & Transmission Inc., 2023 Cost-of-Service Review – Reasons for Approval of Negotiated Settlements, Proceeding 26617, July 28, 2022.

¹⁵ ATCO Electric decision, paragraph 138.

¹⁶ ATCO Electric decision, paragraph 146.

¹⁷ See, for example, Decision 21149-D01-2016 (Errata): ENMAX Power Corporation, Distribution 2015-2017 Performance-Based Regulation – Negotiated Settlement Application and Interim X Factor, Proceeding 21149, October 3, 2016, paragraph 29; Decision 25726-D01-2021: ENMAX Power Corporation, 2021-2022 General Tariff Application Negotiated Settlement Agreement and Excluded Matters, Proceeding 25726, June 16, 2021, paragraph 23; Decision 23966-D01-2020 (Corrigenda): ENMAX Power Corporation, 2018-2020 General Tariff Application Negotiated Settlement Agreement and Excluded Matters, Proceeding 23966, July 30, 2020; and Decision 26207-D01-2021: Direct Energy Regulated Services, 2020-2022 Default Rate Tariff and Regulated Rate Tariff – Negotiated Settlement Agreement, Proceeding 26207, June 4, 2021, paragraph 18.

34. Section 3 of Rule 018 outlines the provision of notice by an applicant to parties who may be interested in participating in the negotiations. The Commission requires a statement in the settlement agreement confirming that proper notice was provided by the applicant to all interested parties. The ROLR Providers submitted that proper notice was given to all interested parties of the negotiated settlement process through Bulletin 2024-14 that was published on the Commission's website.¹⁸ The Commission agrees that Bulletin 2024-14 provided adequate notice to interested parties that wished to participate in the negotiations of the ROLR EPSPs and T&Cs.

35. With regard to the conduct of the negotiation process, the ROLR Providers submitted that the settlement negotiations were informed by discussions among the parties and the record of this proceeding, including the joint EPSP application, intervener evidence and IR responses from parties.¹⁹ The NSA includes a statement asserting that each party²⁰ acknowledges and agrees that it had a fair opportunity to participate in the negotiation process leading to the NSA and that the negotiation process itself was fair.

36. The CCA advised that it participated in two months of intense negotiations prior to the joint application being filed, and believed that this portion of the negotiations was fair and reasonable. The CCA submitted that there appeared to be settlement discussions on October 29 and October 30, 2024, only between the ROLR Providers and the UCA. Therefore, the CCA submitted that it was not able to comment on the fairness of the settlement process during this time frame. The CCA indicated that while this process may raise some concerns to it and be discouraging to the CCA, it was not aware that any of this process was patently unfair.²¹ The ROLR Providers responded that the same settlement offers were made available to the CCA and the UCA, and that the ROLR Providers provided the CCA with a draft of the NSA once it had reached an agreement in principle with the UCA.²²

37. The Commission notes that the CCA did not request any additional relief or suggest that the Commission should refrain from approving the NSA. The Commission is satisfied that the parties had the opportunity to meaningfully participate, and that the negotiations were conducted in an open and fair manner.

38. In view of the above and having considered the parties' submissions with respect to the NSP, the Commission is satisfied that the NSP was fair and that the ROLR Providers have complied with the requirements set out in sections 3, 6(1) and 6(3) of Rule 018.

3.3 Review of the Negotiated Settlement Agreement

39. In reviewing the NSA, the Commission is guided by the *Electric Utilities Act*, the *ROLR Regulation* and Rule 018, and in particular, Section 8(2) of Rule 018. The test under Rule 018 requires consideration of whether any of the settlement provisions, individually or collectively, are patently against the public interest or contrary to law.

¹⁸ Exhibit 29204-X0302, PDF page 13, paragraph 37.

¹⁹ Exhibit 29204-X0302, PDF page 14, paragraph 40.

²⁰ The ROLR Providers and the UCA are signatories to the NSA.

²¹ Exhibit 29204-X0318, CCA Letter re Fairness of NSA Process - 29204, PDF page 4, paragraph 14.

²² Confidential Exhibit 29204-X0319-C.

40. In conducting the public interest assessment, the Commission considered each element of the NSA and the NSA as a whole. As to what constitutes the public interest when assessing the attributes and merits of an NSA, the Commission followed the guidance provided by the Alberta Court of Appeal in the ATCO Electric decision discussed above. That is, it considered the public interest from the perspective of ratepayers. In arriving at its findings, the Commission reviewed each of the material provisions of the NSA. The Commission has also considered whether the effect of the NSA would lead to rates that are acceptable for purposes of the *ROLR Regulation*.

41. The Commission, in conducting its public interest analysis, takes into account all information on the record. This information provided the Commission with an additional basis upon which to conduct its public interest analysis.

42. The ROLR Providers and the UCA agreed to the following ROLR rates in the NSA for the first ROLR term:²³

Table 1. Agreed ROLR rates

ROLR Provider	ROLR rate (cents/kWh)
EEA	12.01
EEC	12.06
DERS	12.02

43. Each ROLR rate must be set in accordance with the EPSPs for the duration of the ROLR term. The ROLR term is defined in each of the ROLR Providers' respective EPSPs as two, two-year terms, for which the ROLR rate is fixed. The first ROLR term is January 1, 2025, through to December 31, 2026, and the second ROLR term is January 1, 2027, through to December 31, 2028. Each EPSP sets out the calculation of the ROLR rate for the first two-year term and a separate calculation of the ROLR rate for the second two-year term. Each EPSP satisfies the requirement that the ROLR rate for the second two-year term can be no more than 10 per cent higher or no more than 10 per cent lower than the ROLR rate in effect at the end of the first ROLR term.²⁴ The Commission finds that these elements of the EPSP satisfy the express requirements in the *ROLR Regulation*.²⁵

44. In calculating the ROLR rate, the *ROLR Regulation* requires that the price-setting period for a two-year term begin on a date approved by the Commission, and end at least 30 days before the next ROLR term takes effect.²⁶ The price-setting period for the first two-year ROLR period is [REDACTED] with a valuation date of [REDACTED]. This price-setting period and the valuation date are set out in the NSA. The exact price-setting period and valuation date for the second two-year ROLR period is not specified in the EPSPs. The ROLR providers indicated that the valuation date will be on or before December 2, 2026,²⁷ which is at least 30 days before the second two-year ROLR term takes effect. The ROLR

²³ Confidential Exhibit 29204-X0302-C, PDF page 4, paragraph 6(e).

²⁴ Additional information about this calculation can be found in Confidential Exhibit 29204-X0254-C, response ROLRProviders-AUC-2021OCT21-001(a), PDF pages 1-2.

²⁵ *ROLR Regulation*, Sections 3(6), 5.1(3), 10(1), 11(4) and 11(5).

²⁶ *ROLR Regulation*, Section 11(3).

²⁷ Confidential Exhibit 29204-X0330-C, PDF page 13, Section 4.1.1.

Providers must, and have advised they will, seek Commission approval of the ROLR rate for the second ROLR term.

45. The ROLR Providers submitted that the process used in the EPSPs to set the ROLR rates was based on established financial modelling techniques and used inputs derived from market data. They added that the NSA did not change this process but rather it simply adjusted some of the model's inputs.²⁸ The ROLR Providers noted that the NSA results in lower ROLR rates than what was applied for.

46. The ROLR rates resulting from the NSA are higher than the current competitive retail offerings for comparable contracts. The Commission recognizes that the legislated ROLR structure is unique and imposes new, incremental risks that are specific to ROLR Providers, which all else being equal, would result in initial ROLR rates that are higher than current fixed rates offered by unregulated competitive providers. Any rate-setting process, let alone the first such process, to price this incremental risk on this novel product is going to come with an inherent level of uncertainty.

47. The Commission addresses the sufficiency of information regarding the risk margin in Section 3.3.1 of this decision and whether the EPSPs expressed in the NSA are in the public interest in relation to the requirements for a FEOC electricity market in Section 3.3.2. The Commission provides its reasons for approving the NSA, as a whole, in Section 3.3.3.

3.3.1 Sufficiency of information regarding risk margin and reasonable return

48. The Commission must ensure the risk margin²⁹ is just and reasonable and have regard for a separate reasonable return for the ROLR Providers to provide electricity services.³⁰

49. The *ROLR Regulation* states that the risks covered by the risk margin may include risks associated with energy-related costs and non-energy-related costs that the Commission considers reasonable and prudent.³¹ As the application does not address non-energy costs, the Commission will only provide findings regarding the risks associated with energy-related costs. The *ROLR Regulation* also requires the Commission to have regard for the principles that a regulated rate tariff must allow for a reasonable return for providing electricity services and that the risk margin must not be considered part of that return.

50. [REDACTED]

51. [REDACTED]

²⁸ Confidential Exhibit 29204-X0302-C, PDF page 15, paragraph 44.

²⁹ Throughout the record of this proceeding, the risk margin has been referred to using various terms including risk premium, risk compensation and risk adder. Generally, the Commission considers these terms to be synonymous and referring to all or a portion of the risk margin.

³⁰ *ROLR Regulation*, Section 5(1) and Section 6(1)(b)(i) and (ii).

³¹ *ROLR Regulation*, Section 5(4).

[REDACTED]

52. [REDACTED]

53. [REDACTED]

The Commission also considers that specific elements of risk compensation in the EPSPs were negotiated, and the NSA reflects adjusted inputs to the calculation of risk compensation.

3.3.2 Requirements regarding fair, efficient and open competition

54. The *ROLR Regulation* states that an owner must develop a ROLR EPSP that uses a FEOC process,³² and the MSA must review the EPSP(s) and prepare a determination report indicating whether the EPSP(s) complies with the requirements for a FEOC market.³³ The Commission must consider only those applications for a regulated rate tariff that include a MSA determination report; however, the Commission is not obligated to follow any results or recommendations made by an MSA determination report.³⁴

55. The Commission must also have regard for the principle that a regulated rate tariff must not impede the development of a FEOC market in which neither the market nor the structure of the Alberta electric industry is distorted by unfair advantages of any electricity market participant.³⁵

56. In its report, the MSA found that the EPSPs do comply with openly competitive principle but do not comply with the fair and efficient principles. In particular, the MSA noted that the EPSPs may:

- Generate cross-subsidies among ROLR customers;
- Not reflect the expected costs of ROLR Providers; and

³² *ROLR Regulation*, Section 5.1(1)(a).

³³ *ROLR Regulation*, Section 5.2.

³⁴ *ROLR Regulation*, Sections 6(1.1) and 6(1.2).

³⁵ *ROLR Regulation*, Section 6(1)(d).

- Distort consumption decisions away from competitive outcomes.

57. The ROLR Providers countered the MSA’s position, submitting that the EPSPs generate minimal cross-subsidies among ROLR customers and properly capture the cost (or price) of risk to the ROLR Providers. The minimal cross-subsidies among ROLR customers would, in turn, limit the distortion of consumption decisions away from competitive outcomes.

58. For the reasons that follow, the Commission finds that the EPSPs resulting from the negotiated settlement are acceptable, within the framework of the *ROLR Regulation* and are workably compliant with FEOC principles.

3.3.2.1 MSA determination report – Are the ROLR EPSPs fair?

59. In Section 5.1 of the MSA determination report, the MSA stated that a fair EPSP generates an energy price that reflects the expected cost of providing service to customers. Because the ROLR Providers’ EPSPs produce a single price for all rate classes, the MSA determined that the energy rate may pool the expected costs to serve all eligible customer types, resulting in a situation where less costly customers subsidize more costly customers.³⁶

60. The Commission considers that the “fairness” principle generally means that there should be a level playing field among affected parties.³⁷ Further, in terms of rate classes, there is some degree of cross-subsidization among any utility rate class. The question as to whether the cross-subsidy is acceptable is a matter of degree. In this case, the Commission agrees with the ROLR Providers that the *ROLR Regulation* does not require different rates for each rate class and that should any potential cross-subsidization exist, it would be minimal. As noted by the ROLR Providers, historical rates for all rate classes except street lighting have been relatively homogenous. Thus, the magnitude of any cross-subsidy that would exist under a single rate class for each provider would be muted. The Commission also agrees with the ROLR Providers’ assertion that any differences between load profiles for different customer classes would likely have negligible impact on costs to consumers compared to the uncertainty inherent in load forecasts looking ahead two or four years.³⁸ These factors support the conclusion that an EPSP resulting in a single rate for all customer classes is not contradictory to the “fairness” principle of FEOC.

3.3.2.2 MSA determination report – Are the ROLR EPSPs efficient?

61. In Section 6 of the MSA determination report, the MSA concluded that, due to several factors discussed in more detail below, the EPSPs are not efficient. The Commission acknowledges the concerns raised by the MSA. However, for the reasons set out below, the Commission finds that, under the restrictions imposed by the unique regulatory construct of the

³⁶ Exhibit 29204-X0085, Appendix G - MSA Determination Report Redacted, PDF pages 7-8.

³⁷ See Decision 2011-226: Alberta Electric System Operator, Objections to ISO Rule Section 502.1 Wind Aggregate Generating Facilities Technical Requirements, Proceeding 787, May 31, 2011, Section 6.4 Unfairness and FEOC.

³⁸ Exhibit 29204-X0106, Provider Response to Appendix G - Confidential MSA Determination Report – Redacted, PDF pages 10-11.

ROLR Regulation, the EPSPs are workably efficient and do not necessarily contravene the “efficient” principle of FEOC.

62. In Section 6.1 of the determination report, the MSA determined that the cross-subsidies may distort consumption decisions away from competitive outcomes. In this scenario, subsidized customers would consume more than they otherwise would while the subsidizing ratepayers would consume less.³⁹ However, as noted in Section 3.3.2.2 of this decision, the Commission is satisfied that should any cross-subsidization exist, it would likely be immaterial. Therefore, any distortion resulting from the cross-subsidization would also be insignificant.

63. In Section 6.2.1, the MSA further determined that the EPSPs are not efficient because they may not produce an energy price reflective of expected costs of providing service. [REDACTED]

64. [REDACTED]
[REDACTED]
[REDACTED] The *ROLR Regulation* introduces a unique and novel retail electricity product to the Alberta marketplace. The legislative requirements of this new product imposes restrictions and incremental risks on the ROLR Providers over and above those faced by competitive retailers, [REDACTED]
[REDACTED] that were not present for RRO providers under the RRO construct. As a result, this novel product creates more uncertainty as to the price of the risks faced by ROLR Providers. [REDACTED]

65. [REDACTED]
[REDACTED]

³⁹ Exhibit 29204-X0085, PDF page 9.

[REDACTED]

- [REDACTED]
- [REDACTED]

66. While the MSA clearly explained its concerns with the ROLR Providers' model, it did not provide any alternative solutions to alleviate its concerns. [REDACTED]

[REDACTED] As discussed in Section 3.3 of this decision, the ROLR is a novel product that results in incremental risks for the ROLR Providers. There is significant inherent uncertainty in forecasting the costs associated with these risks. Given that the parties accepted the model expressed in the NSA with notable compromises in certain inputs, including the calculation of the ROLR risk premium, the Commission accepts the model as a workable option to calculate the ROLR risk premium and finds that the concerns raised by the MSA do not necessarily support an ultimate conclusion by the Commission that the EPSP is not efficient.

67. [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

68. [REDACTED] This uncertainty in the MSA's determination report weakens the MSA's conclusion that the EPSP is **not** efficient. Moreover, the Commission notes that the NSA showed reductions [REDACTED] in the ROLR pricing model, suggesting compromises between the ROLR Providers and the UCA. In consideration of these factors, the Commission is prepared to accept that the ROLR risk premium model is a workable method of forecasting the cost of these risks and finds that the MSA's concerns do not necessarily mean that the EPSP is not efficient.

3.3.2.3 MSA determination report – Are the EPSPs openly competitive?

69. The Commission agrees with the MSA's assessment that the EPSPs support open competition in Section 7 of the determination report. The MSA concluded that the EPSPs

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

support open competition [REDACTED]

70. Section 11(1) of the *ROLR Regulation* requires that a ROLR rate must be calculated based on load forecasts made during the relevant price-setting period, electricity market prices prevailing during the relevant price-setting period⁴⁹ and the consumer awareness surcharge (CAS)⁵⁰ collected of 0.1 cents/kWh. The Commission reviewed the agreed-upon confidential ROLR pricing model, the agreed-upon EPSPs, as well as information provided by the ROLR Providers, and finds that the requirements described have been satisfied. [REDACTED]

The ROLR rate includes the CAS of 0.1 cents/kWh.

3.3.2.4 Section 6(1)(d) of ROLR Regulation – FEOC considerations

71. Another matter the Commission must have regard for is the principle in Section 6(1)(d) of the *ROLR Regulation* that a regulated rate tariff must not impede the development of an efficient market based on fair and open competition in which neither the market nor the structure of Alberta electric industry is distorted by unfair advantages of any electricity market participant.⁵³ The ROLR Providers submitted that because the ROLR rates are currently higher than the current comparable offerings of unregulated retailers, this will result in an acceptably low likelihood that they will cause retail electricity market prices to depart from competitive market outcomes.⁵⁴ The Commission agrees and does not expect that the ROLR rates agreed to in the NSA will impede the development of an efficient retail market.

3.3.3 Conclusion

72. Based on the foregoing, the Commission finds that the EPSPs expressed in the NSA are, within the constraints, workably compliant with FEOC principles and, for purposes of this decision, satisfy sections 5.1(1)(a) and 6(1)(d) of the *ROLR Regulation* at this time.

73. On the basis of the Commission’s assessment of provisions of the NSA as described above, along with the detailed analysis of the application and IR responses, the Commission is prepared to find that the NSA, taken as a whole, satisfies the relevant requirements set out in the *Electric Utilities Act* and the *ROLR Regulation*. In addition, the NSA, taken as whole, satisfies Rule 018, as it is not patently against the public interest or contrary to law. Accordingly, the Commission approves the NSA as filed.

⁴⁹ Section 11(2) of the *ROLR Regulation* states that the ROLR rate must not be based on market prices prevailing before or after a relevant price-setting period.

⁵⁰ *ROLR Regulation*, Section 11.1.

⁵³ *ROLR Regulation*, Section 6(1)(d).

⁵⁴ Confidential Exhibit 29204-X0302-C, PDF page 16, paragraph 45(d).

74. As a result of this decision, the ROLR rates expressed in the NSA and shown in Table 1 above are approved.

75. The Commission notes that, because of the periodic reviews by the MSA and potential reopeners,⁵⁵ the rates may be adjusted throughout the term(s) of the ROLR.

4 Other matters

76. In this section of the decision, the Commission will examine other matters either applied for by the ROLR Providers or that arose during the course of the proceeding. In Section 4.1, the Commission addresses the recovery of one-time implementation and billing system transition costs. In Section 4.2, the Commission addresses the fee and rate schedules. In Section 4.3, the Commission addresses compliance with previous decisions. In Section 4.4, the Commission addresses a request by the CCA in relation to its costs for participating in this proceeding. In Section 4.5, the Commission addresses a request by the CCA in relation to retaining confidential information for a longer period than contemplated under Rule 001: *Rules of Practice*.

4.1 One-time implementation and billing system transition costs recovery

77. Section 6(1)(f) of the *ROLR Regulation* requires the Commission to approve an EPSP in a manner that ensures the owner cannot recover any additional costs through the electric energy charge once a ROLR rate is finalized. The Commission confirms that, because the EPSP results in a ROLR rate that is fixed for the initial two-year term, the ROLR Providers cannot recover any additional costs through the electric energy charge once the ROLR rate is approved.

78. The ROLR Providers are entitled to a one-time recovery of implementation costs, including costs related to billing, system updates, and other non-energy charges associated with the transition from a monthly regulated rate-setting plan (being the RRO) to a two-year fixed regulated rate-setting plan.⁵⁶ The Commission expects the ROLR Providers to apply for the recovery of these costs through non-energy rate applications.

4.2 Fee schedule and rate schedules

79. As part of the application,⁵⁷ the ROLR Providers requested approval of updated price schedules for EEA,⁵⁸ an updated fee schedule for EEC⁵⁹ and updated rate schedules for EEC.⁶⁰ In approving the NSA, the Commission approves these updated schedules.⁶¹

⁵⁵ Under sections 11.2 and 11.3 of the *ROLR Regulation*, on receiving notification from the MSA that the financial performance(s) of the ROLR Provider(s) fall outside the parameters set by the MSA, the Commission shall initiate a rate reopener proceeding to reconsider the regulated rate.

⁵⁶ *ROLR Regulation*, Section 6.1.

⁵⁷ Exhibit 29204-X0099, PDF page 11, paragraph 1(c).

⁵⁸ The updated price schedules for EEA are in exhibits 29204-X0068 and 29204-X0070.

⁵⁹ The updated fee schedule for EEC is in Exhibit 29204-X0072.

⁶⁰ The updated rate schedules for EEC are in Exhibit 29204-X0074.

⁶¹ Section 2.1 of the NSA indicates that the parties agree that, with the exception of the items in Article 2 of the NSA, the application should be approved as filed. There are no exceptions in Article 2 of the NSA that deal with the updated price schedules for EEA or the updated fee schedule and rate schedules for EEC, which means that the parties agreed that these schedules should be approved as filed.

80. The Commission notes that the approved fee schedule for EEC in this proceeding (Exhibit 29204-X0072) is different from a recently approved fee schedule for EEC in Decision 29379-D01-2024.⁶² Both fee schedules are approved effective January 1, 2025. The approved fee schedule in this proceeding includes a fee of \$8 per notice for a final notice. However, the approved fee schedule from Proceeding 29379 includes a fee of \$15 per notice for a final notice. The blacklined version of the fee schedule in Proceeding 29204 indicates that EEC changed the \$15 to \$8 as part of this proceeding. It is unclear why EEC's fee for final notice was revised in a short span of time, but the Commission considers that the \$8 is beneficial to ratepayers. Because there are no exceptions in Article 2 of the NSA that deal with the updated fee schedule for EEC, and the Commission must either accept or reject the NSA in its entirety, the Commission accepts the fee of \$8 per notice for a final notice. In approving the NSA, the fee for a final notice is \$8 effective January 1, 2025.

81. The Commission notes that the format of the approved rate schedules for EEC in this proceeding (Exhibit 29204-X0074) is different than the format of recently applied-for rate schedules for EEC in Proceeding 29379 and Proceeding 29608.⁶³ The Commission directs EEC to file a letter as a post-disposition document on the record of this proceeding in which it clarifies whether the rate schedules in Exhibit 29204-X0074 are in the correct format, or whether the format of the rate schedules applied for in proceedings 29379 and 29608 are correct.

82. With regard to EEA's and EEC's rate schedules, the Commission notes that the energy charge is described as to "change monthly." The Commission is unclear why the energy charge would change monthly as the ROLR rate is a fixed rate for the duration of each two-year term. The Commission directs EEA and EEC to file a letter as a post-disposition document on the record of this proceeding in which it clarifies whether this is an error and, if required, file an updated set of rate schedules.

83. The Commission notes that DERS did not file nor request for its rate schedules to be approved by the Commission. The Commission understands that the only change required in DERS' schedules is the "Rider P energy charge schedule," which needs to be updated to include the approved ROLR rate for 2025. The Commission directs DERS to update the "Rider P energy charge schedule" and file the updated rate schedules as a post-disposition document on the record of this proceeding for informational purposes.

84. The Commission directs that the post-disposition documents referred to in this section be filed by the ROLR Providers by **4 p.m. on Friday, December 6, 2024.**

4.3 Compliance with outstanding Commission directions

85. In paragraph 40 of Decision 25537-D01-2020,⁶⁴ the Commission issued a direction to EEC to include budgetary quotes for contracts for third-party services and any other corollary services as part of future EPSP applications. EEC submitted that this requirement is no longer

⁶² Decision 29379-D01-2024: ENMAX Energy Corporation, Amendments to the Regulated Rate Option Rate Schedule and Fee Schedule, Proceeding 29379, November 7, 2024. The approved fee schedule is in Exhibit 29379-X0003.

⁶³ Proceeding 29608, ENMAX Energy Corporation, Regulated Rate Tariff: 2025 Non-Energy Interim Rates.

⁶⁴ Decision 25537-D01-2020: ENMAX Energy Corporation, 2019-2022 Energy Price Setting Plan Compliance Filing, Proceeding 25537, July 7, 2020.

applicable as energy procurement is out of scope for the new EPSP. EEC stated that because each ROLR Provider will be responsible for its own energy procurement, it is not possible to provide an itemized budgetary quote for services and corollary services as part of the current EPSP application.⁶⁵

86. The Commission considers that the ROLR rates calculated in accordance with the EPSPs presented in the application are not derived from any specific costs and agrees with EEC that energy procurement is no longer directly linked to the calculation of the regulated energy rate. The Commission finds that for the purpose of the EPSP applied for by EEC in this proceeding, the direction in paragraph 40 of Decision 25537-D01-2020 is not relevant and EEC does not have to comply with it.

87. In paragraph 227 of Decision 24721-D01-2020,⁶⁶ the Commission directed EEC to include the applicable reasonable return rates and the corresponding energy figures in its future Rule 005⁶⁷ filings. EEC submitted that it has included this information as notes in Schedule 1 of its Rule 005 filings since 2021. The Commission finds that EEC has complied with this direction and EEC will have to include the same information as part of the Rule 005 filing results for 2024 that will be filed in 2025.

88. [REDACTED]
[REDACTED]
[REDACTED] The Commission therefore finds that EEC will not be required to comply with the direction in paragraph 227 of Decision 24721-D01-2020 as part of its Rule 005 filings, effective with the Rule 005 filing results for 2025 that will be filed in 2026. The Commission finds that EEA and DERS will also not be required to comply with any previous directions issued by the Commission regarding the reporting of reasonable return information, effective with the Rule 005 reports to be filed in 2026.

4.4 Cost claim submission for the Consumers' Coalition of Alberta

89. The CCA requested that the Commission direct the ROLR Providers to pay the CCA's invoices in connection with this proceeding, on a refundable basis, within 30 days of receiving the CCA's invoices. If the Commission determines a lower amount than what was claimed by the CCA in a forthcoming costs claim application under Rule 022: *Rules on Costs in Utility Rates Proceedings* to be just and reasonable, then the CCA would refund the difference to the ROLR Providers within 60 days of that decision. The CCA noted that term had been included in NSAs in the past,⁶⁸ and that the Commission has approved this term.⁶⁹

90. The ROLR Providers opposed the CCA's proposal and submitted that this term had been included in past NSAs to which the CCA was a party. However, as the CCA was not a party to

⁶⁵ Exhibit 29204-X0099, PDF page 66, paragraph 212.

⁶⁶ Decision 24721-D01-2020: ENMAX Energy Corporation, 2019-2022 Energy Price Setting Plan, Proceeding 24721, March 19, 2020.

⁶⁷ Rule 005: *Annual Reporting Requirements of Financial and Operational Results*.

⁶⁸ Decision 28939-D01-2024, Section 2.6 of the NSA, PDF pages 41-42.

⁶⁹ Confidential Exhibit 29204-X0301-C, pages 8-9.

the NSA filed in this proceeding, the CCA should follow the normal practice set out in the AUC rules, and file a cost claim in accordance with Section 5(5) of Rule 022.

91. The CCA is entitled to file a costs claim application under Section 9 of Rule 018. The Commission finds it reasonable for the normal process and time frames for cost claim applications, as set out in Rule 022, to be followed by the CCA.

4.5 Consumers' Coalition of Alberta submissions on preservation of confidential information

92. The CCA recommended that the Commission should direct all confidential material, which normally must be expunged in accordance with the confidentiality undertaking form (Form RP5), be retained and available for reference, review or use by any party with standing, in any subsequent ROLR-related hearing.⁷⁰ The ROLR Providers opposed this request on the basis it would be contrary to the Commission's established confidentiality process and unnecessary in the circumstances.

93. The CCA's request is denied. The Commission agrees with the ROLR Providers that the obligation to destroy confidential information and related materials at the end of a proceeding is an important safeguard of the interests that granting confidentiality is intended to protect. Further, the Commission does not consider that granting this request would result in material efficiencies gained. To the extent confidential information is necessary in future, related proceedings, the Commission expects that the ROLR Providers can file such information on the confidential record in those subsequent proceedings with parties gaining access through the Commission's established confidentiality process.

94. According to the Commission's confidentiality undertaking form (Form RP5), a person signing a confidentiality order must expunge the confidential information they have in their possession or under their direction or control within 30 days of the expiration of any appeal or review period of the Commission's decision in respect of the original proceeding, unless otherwise directed by the Commission.

95. In this proceeding, the Commission interpreted the meaning of confidential information broadly, taking into account the unique nature of this proceeding and that it is being processed on an expedited basis. The Commission also redacted portions of this decision, aside from the decision summary, given the need to issue the decision expeditiously. However, the Commission intends to reissue this decision to more accurately reflect the need for confidentiality. The Commission expects much of this decision may be unredacted as a result of this review. In addition, the Commission intends to revisit the confidential treatment of information contained in the EPSPs and NSA, and considers that some of this information, which is currently redacted, could appropriately be disclosed on the public record. The Commission requests that parties provide submissions identifying any information in this decision that should remain confidential (this can include identification information using pinpoint references) by January 15, 2025. The Commission will then consider these submissions and reissue the decision. Parties may also

⁷⁰ Confidential Exhibit 29204-X0301-C, pages 6-7.

provide submissions on the confidential treatment of information contained in the EPSPs and NSA by the same date.

96. The Commission directs that the 30-day trigger in Form RP5 will be the date that this decision is reissued. Persons who signed Form RP5 may retain the confidential information until that time, and then must expunge it within 30 days, subject to the other qualifications set out in Form RP5.

5 Order

97. It is hereby ordered that:

- (1) For the reasons set out in this decision, the Alberta Utilities Commission approves the Negotiated Settlement Agreement, the appendixes and attachment to the Negotiated Settlement Agreement and the negotiated settlement amending agreement. The updated price schedules for EPCOR Energy Alberta GP Inc. and the updated fee schedule and rate schedules for ENMAX Energy Corporation are approved as well, because approval of these was requested in the application and the parties agreed in the Negotiated Settlement Agreement that they should be approved as filed. The approved documents are as follows:
 - The Negotiated Settlement Agreement
 - public, redacted document in Exhibit 29204-X0312.02
 - Confidential Exhibit 29204-X0312.01-C
 - The negotiated settlement amending agreement
 - public, redacted document in Exhibit 29204-X0329.01
 - Confidential Exhibit 29204-X0329.01-C
 - Attachment 1 to the Negotiated Settlement Agreement: confidential 2025-2028 rate of last resort pricing model
 - Confidential Exhibit 29204-X0311-C
 - Appendix A-1 of the Negotiated Settlement Agreement: 2025-2028 EPCOR Energy Alberta GP Inc. energy price setting plan
 - public, redacted document in Exhibit 29204-X0330.01
 - Confidential Exhibit 29204-X0330.01-C
 - Appendix A-2 of the Negotiated Settlement Agreement: 2025-2028 ENMAX Energy Corporation energy price setting plan
 - public, redacted document in Exhibit 29204-X0331.01
 - Confidential Exhibit 29204-X0331.01-C
 - Appendix A-3 of the Negotiated Settlement Agreement: 2025-2028 Direct Energy Regulated Services energy price setting plan
 - public, redacted document in Exhibit 29204-X0332.01
 - Confidential Exhibit 29204-X0332.03-C

- Appendix B of the Negotiated Settlement Agreement: confidential rate of last resort pricing model – user guide
 - Confidential Exhibit 29204-X0333-C
- Appendix C-1 of the Negotiated settlement agreement: EPCOR Energy Alberta GP Inc. terms and conditions of service
 - public document in Exhibit 29204-X0334
- Appendix C-2 of the Negotiated Settlement Agreement: ENMAX Energy Corporation terms and conditions of service
 - public document in Exhibit 29204-X0335
- Appendix C-3 of the Negotiated Settlement Agreement: Direct Energy Regulated Services terms and conditions of service
 - public document in Exhibit 29204-X0336
- EPCOR Energy Alberta GP Inc. price schedules for the EPCOR Distribution & Transmission Inc. service area
 - public document in Exhibit 29204-X0068
- EPCOR Energy Alberta GP Inc. price schedules for the FortisAlberta Inc. service area
 - public document in Exhibit 29204-X0070
- ENMAX Energy Corporation fee schedule
 - public document in Exhibit 29204-X0072
- ENMAX Energy Corporation rate schedules
 - public document in Exhibit 29204-X0074

Dated on February 12, 2025.

Alberta Utilities Commission

(original signed by)

Carolyn Dahl Rees
Chair

(original signed by)

Vincent Kostas
Acting Commission Member

Appendix 1 – Proceeding participants

Name of organization (abbreviation) Company name of counsel or representative
EPCOR Energy Alberta GP Inc. (EEA) Borden Ladner Gervais LLP
ENMAX Energy Corporation (EEC) Torys LLP
Direct Energy Regulated Services (DERS) Lawson Lundell Barristers & Solicitors
Office of the Utilities Consumer Advocate (UCA) Reynolds, Mirth, Richards & Farmer LLP M. Hansen InterGroup Consultants
Consumers' Coalition of Alberta (CCA)

Alberta Utilities Commission
Commission panel
C. Dahl Rees, Chair
V. Kostaskey, Acting Commission Member
Commission staff
J. Graham (Commission counsel)
R. Watson (Commission counsel)
R. Tran
C. Arnot
R. Cassidy
E. Davis
A. Hollis
D. Mitchell
B. Edwards
C. Robertshaw

Appendix 2 – Oral hearing – registered appearances

Name of organization (abbreviation) Name of counsel or representative
EPCOR Energy Alberta GP Inc. (EEA) J. Liteplo J. Hulecki
ENMAX Energy Corporation (EEC) D. Wood N. Ettinger
Direct Energy Regulated Services (DERS) A. Mackinnon
Office of the Utilities Consumer Advocate (UCA) C.R. McCreary, KC B. Schwanak
Consumers' Coalition of Alberta (CCA) J. Wachowich, KC

Alberta Utilities Commission
Commission panel C. Dahl Rees, Chair V. Kostaskey, Acting Commission Member
Commission staff J. Graham (Commission counsel) R. Watson (Commission counsel) R. Tran C. Arnot A. Hollis D. Mitchell B. Edwards C. Robertshaw

Appendix 3 – Summary of Commission directions

This section is provided for the convenience of readers. In the event of any difference between the directions in this section and those in the main body of the decision, the wording in the main body of the decision shall prevail.

1. The Commission notes that the format of the approved rate schedules for EEC in this proceeding (Exhibit 29204-X0074) is different than the format of recently applied-for rate schedules for EEC in Proceeding 29379 and Proceeding 29608. The Commission directs EEC to file a letter as a post-disposition document on the record of this proceeding in which it clarifies whether the rate schedules in Exhibit 29204-X0074 are in the correct format, or whether the format of the rate schedules applied for in proceedings 29379 and 29608 are correct. paragraph 81
2. With regard to EEA’s and EEC’s rate schedules, the Commission notes that the energy charge is described as to “change monthly.” The Commission is unclear why the energy charge would change monthly as the ROLR rate is a fixed rate for the duration of each two-year term. The Commission directs EEA and EEC to file a letter as a post-disposition document on the record of this proceeding in which it clarifies whether this is an error and, if required, file an updated set of rate schedules. paragraph 82
3. The Commission notes that DERS did not file nor request for its rate schedules to be approved by the Commission. The Commission understands that the only change required in DERS’ schedules is the “Rider P energy charge schedule,” which needs to be updated to include the approved ROLR rate for 2025. The Commission directs DERS to update the “Rider P energy charge schedule” and file the updated rate schedules as a post-disposition document on the record of this proceeding for informational purposes. paragraph 83
4. The Commission directs that the post-disposition documents referred to in this section be filed by the ROLR Providers by 4 p.m. on Friday, December 6, 2024. paragraph 84
5. The Commission directs that the 30-day trigger in Form RP5 will be the date that this decision is reissued. Persons who signed Form RP5 may retain the confidential information until that time, and then must expunge it within 30 days, subject to the other qualifications set out in Form RP5. paragraph 96