



March 6, 2012

2011 Code of Conduct Testing

The electricity Code of Conduct Regulation (Code) was enacted under the *Alberta Electric Utilities Act* to help ensure a level playing field for retailers and thereby promote a competitive retail electricity market. Specifically, the Code governs the interactions between owners of electricity distribution systems (owners) and their affiliated retailers such that affiliated retailers maintain no preferential status over other retailers by virtue of their relationship with an owner.

The Market Surveillance Administrator (MSA) as part of its mandate has oversight responsibility for monitoring of compliance to the Code as applicable. The Code contemplates that owners and affiliated retailers will undergo periodic compliance audits within the oversight of the MSA. Accordingly, the MSA designed a process to create efficiencies in compliance testing for those subject to the Code by appointing a common auditor (Grant Thornton LLP) to undertake the testing on behalf of the MSA for:

- ENMAX Power Corporation, ENMAX Energy Corporation, ENMAX Commercial Energy Marketing Inc. and Valeo Power Corporation, (ENMAX), and,
- Direct Energy Regulated Services and Direct Energy Partnership (Direct).

The MSA itself undertook the compliance audits for two Rural Electrification Associations (REAs):

- South Alta, and,
- North Parkland Power.

In total, 4 organizations were tested in 2011.

The period being tested was July 1, 2010 through June 30, 2011 inclusive. As in previous years, a mid-year to mid-year test period was maintained in order to offset significant year-end financial auditing and reporting obligations faced by participants and thereby minimize the burden placed onto parties subject to audit.

1. **Scope and Nature of 2011 Code Testing**

This varied according to the different entities under scrutiny. It was influenced by the scale of the operations under testing – the audits for the larger entities, ENMAX and Direct, were more formal and involved more specific measurements related to their compliance plans than were those for the REAs.

The testing plan for ENMAX and Direct this period focused largely on sections 3, 33 and 34 of the Code, and other sections as applicable to the testing of the individual compliance plans. The Code sections referenced above can be described as dealing with adherence to compliance plans and accuracy of compliance reporting. Code testing was carried out through on-site visits in the fall of 2011.

For South Alta and North Parkland Power, the audits were more general in nature, although they also examined compliance with sections 3, 33 and 34 of the Code. MSA staff visited each of these REAs in the fall of 2011 to undertake the testing.

The findings were then shared and discussed with the relevant parties. Testing reports for each of the parties have been finalized accordingly. The findings of those reports are summarized below.

2. **Summary of Findings**

The parties all largely followed the systems, policies, and mechanisms within their respective compliance plans and those efforts toward compliance appear to be producing generally good results. Deviations from approved compliance plans were generally inadvertent, and minor in nature. The following sections deal with the more noteworthy anomalies for each entity that came to light as a result of the audits and the remedial action undertaken.

2.1 **ENMAX**

Prior to September 2010, ENMAX agents followed a standard practice of using past RRO billing history to overcome a failed credit check in fulfilling a customer's request for a competitive retail contract. The auditors uncovered the change in practice when checking a reported lapse of the new practice. The fact that the practice had been changed was not reported to the ENMAX Board or to the MSA as a Code violation.

ACTION: ENMAX acknowledges the unintentional oversight on their part, are actively collecting the facts on how the mistake occurred and will report their results, including

any steps taken to mitigate future occurrences, in the subsequent quarterly compliance report to the MSA.

In November 2010, an email was received that should have found its way to the Complaint Log for subsequent action, but didn't and was ultimately not reported to the MSA. The email concerned a digital map available to anyone on the ENMAX network that showed customer names and addresses. Compliance counsel recognized that there were potential issues with respect to ENMAX's privacy policy as well as with the Code.

ACTION: ENMAX removed the customer names from the map in February, 2011 and the problem should not recur. ENMAX have indicated that they will report the incident in the next quarterly compliance filing to the MSA.

2.2 Direct

Of 11,160 call centre agent calls that were evaluated by one of Direct's business units, three incidents were indentified and corrected by Direct's third party call centre operator. However they were not ultimately reported to the MSA.

ACTION: Direct investigated the matter and have revised the reporting process so as to preclude such omissions in the future. All such incidents from prior times that were missed from the logs were included in Direct's Q3/11 compliance report to the MSA.

2.3 South Alta REA

'South Alta' includes South Alta REA Division and South Alta Rural Energy Division.

As of late 2011, the MSA had not received a copy of the annual compliance report for 2010 as required by South Alta's compliance plan as well as the Code.

ACTION: South Alta have committed to providing to the MSA the missing annual compliance report in March, 2012.

No documentation was available to indicate that appropriate compliance training had occurred in the test period as required in South Alta's compliance plan as well as the Code.

ACTION: Since the time of the audit, South Alta has undertaken a session of staff and director training relevant to Code requirements.

2.4 North Parkland Power REA

For the test period, one quarterly report and one annual report was received by the MSA. North Parkland Power's compliance plan and the Code require that quarterly and annual reports are sent to the MSA.

ACTION: North Parkland have committed to providing the missing quarterly compliance reports to the MSA in March, 2012.

The MSA wishes to note the high degree of co-operation received from parties subject to audit testing this year. No specific feedback is required in relation to this notice. However, feel free to contact the undersigned with any questions or comments.

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