

December 23, 2004

VIA E-MAIL AND COURIER

Alberta Energy and Utilities Board
5th Floor, 640 – 5th Avenue S.W.
Calgary, Alberta
T5P 3G4

Attention: Bob Heggie
Executive Manager
Utilities Branch

Dear Mr. Heggie:

Re: DERS Application to enter into Negotiations Respecting an RRT Transition Rate for Eligible Customers in the ATCO Electric Service Territory

Direct Energy Regulated Services (DERS) requests approval of the Alberta Energy and Utilities Board (EUB or Board):

1. to enter into negotiated settlement discussions with interested parties concerning the establishment of a Regulated Rate Tariff (RRT) transition rate in the ATCO Electric service territory that would become effective no later than July 1, 2004, and
2. for the appointment of a Board staff observer to that settlement process.

These settlement discussions would be held pursuant to the Board's Negotiated Settlement Guidelines contained in Information Letter IL 98-04 Revised, dated February 4, 2003. The background, timelines, and scope related to these proposed settlement discussions are provided below.

Background

On May 20, 2003 DERS filed Application No. 1302109 requesting approval of a Gas Default Rate Tariff and an Electricity RRT. The DERS RRT Application was designed utilizing a pool price flow through energy charge being provided to all eligible customers. This design was consistent with the RRT energy supply model approved for use by ATCO Electric and was also permitted under the Regulated Default Supply Regulation that came into force in June 2003.

On November 4, 2003, the government issued the Regulated Default Supply Amendment Regulation (RDSAR) which requires all owners to assume the procurement risk of acquisition and provide only a fixed price transition rate after January 1, 2004.

On November 26, 2003, the government issued the Regulated Default Supply Amendment Regulation (No. 2) (RDSAR(2)) which allowed the Board to extend the date for the implementation of a transition rate to not later than July 1, 2004. During the extension period, an owner may continue to provide a pool price flow rate.

ATCO Electric applied to the Board on December 5, 2003 for approval to extend the time frame to implement the transition rate to July 1, 2004. In Decision 2003-110, dated December 18, 2003, the Board approved ATCO Electric's request

DERS also applied to the Board on December 8, 2003 for an extension of the date for the implementation of a transition rate in the ATCO Electric service territory, as contemplated in the RDSAR(2), to July 1, 2004.. On December 18, 2004, the Board issued Decision 2003-106 respecting DERS' Electric Regulated Rate Tariff and Gas Default Rate Tariff. In that Decision, the Board granted DERS' application for an extension¹.

In conjunction with the Board's findings in Decision 2003-110, the DERS pool price flow through rate will commence once the role of RRT provider transitions from ATCO Electric to DERS. The precise commencement date is dependant upon the completion of final commercial negotiations between Direct Energy Marketing Limited and the ATCO Group respecting the sale of ATCO Gas' and ATCO Electric's retail businesses. Consistent with this, in Decision 2003-098 the Board directed ATCO to notify the Board of the closing date for the transaction when the date is known, and the date that DERS will become provider of RRT services.

Timelines

In its December 8, 2003 application, DERS advised the Board that it intended to request Board approval to enter into settlement discussions respecting an appropriate RRT energy price setting methodology if the extension were granted. This was noted in Decision 2003-106, and the Board directed DERS to file an application for a transition rate pursuant to the RDSAR(2) on or before February 15, 2004, if it appeared that settlement discussions would be unsuccessful. Otherwise, the Board directed DERS to file its negotiated settlement application no later than March 31, 2004.

In order to meet these deadlines, DERS intends to initiate settlement discussions at the earliest possible opportunity following Board approval of this application. DERS is presently developing a proposal to present to interested parties, and would hope to initiate discussions prior to the end of January 2004.

¹ Decision 2003-106, section 2.1.2, page 6

Scope of Settlement Discussions

DERS anticipates that settlement discussions would encompass the following aspects:

- Requirement for and selection of an advisor to the process,
- Requirement for confidentiality agreements and the form of those agreements,
- Determination of confidential information,
- Forecasts of RRT energy to be procured over the settlement period, including the forecast methodology to be employed,
- Identification and quantification of risks to be borne by DERS and customers,
- Costs of the energy procurement plan, including DERS' incremental internal non-energy costs, interested party costs, and risk margin, and the recovery of those costs,
- Identification of supply portfolio objectives,
- Methodology for determining forward prices,
- Methodology for determining energy charges to consumers,
- Methodology for determining any price adjustments during the settlement period, and
- Specifics of the energy procurement plan.

Without implying a limit to any party's participation, DERS anticipates that parties to this settlement process would be similar to those parties participating in the EPCOR Energy Services (Alberta) Inc. RRT settlement process. In preliminary discussions initiated by DERS, those parties contacted indicated a willingness to enter into negotiations respecting the determination of a transition rate. With this feedback, DERS is of the view that a negotiated settlement can be reached with interested parties in the timeframe directed by the Board. This will, of course, require a committed effort by all participants given the apparent regulatory schedule for early 2004.

Consistent with the above, DERS seeks the Board's earliest approval to enter into negotiated settlement discussions with interested parties and for the appointment by the Board of a Board staff observer. Should you require additional information I can be reached at 403-290-7745.

Yours truly,



Gary Newcombe
Director, Regulatory Affairs, Western Region
Direct Energy Marketing Limited
*Direct Energy Regulated Services
is a business unit of Direct Energy Marketing Limited*

cc: Registered Interveners – DERS RRT Application