



ENMAX Power Corporation

**Transmission Lines 69-15.62L and 69-16.63L
Overhead Structures**

December 6, 2023

Alberta Utilities Commission

Decision 27965-D01-2023

ENMAX Power Corporation

Transmission Lines 69-15.62L and 69-16.63L Overhead Structures

Proceeding 27965

Application 27965-A001

December 6, 2023

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1 Decision summary

1. In this decision, the Alberta Utilities Commission denies the facility application from ENMAX Power Corporation to leave certain overhead portions of Transmission Line 69-15.62L and Transmission Line 69-16.63L in place permanently. Although leaving the transmission lines in an overhead configuration represents the lowest cost option, the Commission approved this configuration on a temporary basis and ENMAX has represented to stakeholders that Transmission Line 69-15.62L and Transmission Line 69-16.63L would be returned to an underground configuration since at least 2010 and 2014, respectively. The Commission finds that it is not in the public interest to approve ENMAX's request to leave the lines in an overhead configuration.

2. The Commission reviewed the entire record for this proceeding in coming to this decision; lack of reference to a matter addressed in evidence or argument does not mean that it was not considered.

2 Introduction and background

2.1 Application

3. ENMAX, under Permit and Licence 23981-D02-2019,¹ is the owner and operator of 69-kilovolt (kV) Transmission Line 69-15.62L, and under Permit and Licence EN 98-60,² is the owner and operator of 69-kV Transmission Line 69-16.63L.

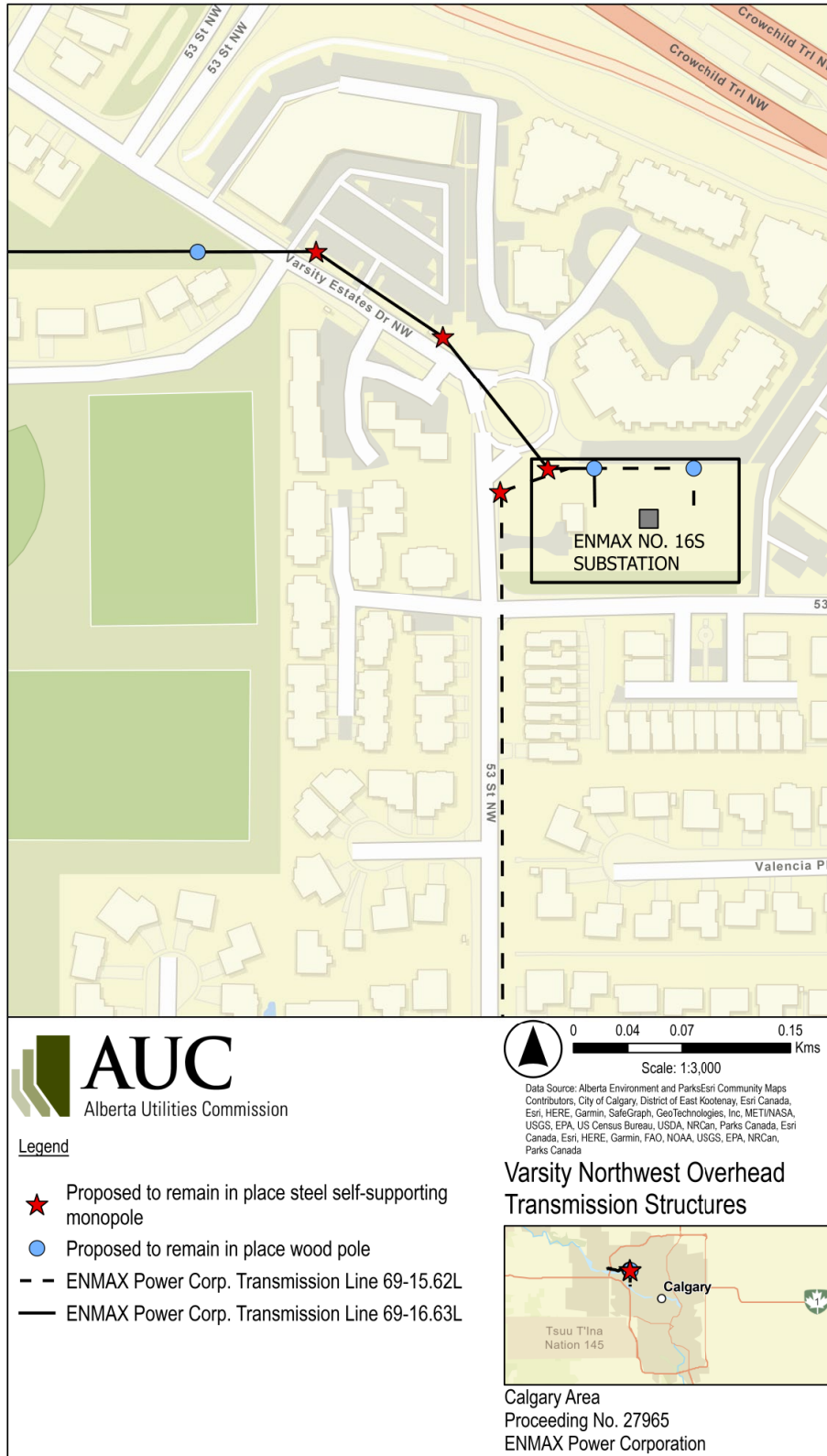
4. ENMAX filed a letter of enquiry with the AUC, requesting approval to leave certain overhead portions of Transmission Line 69-15.62L and Transmission Line 69-16.63L in place permanently. The overhead portions are approximately 310 metres (m) in combined length and are comprised of four self-supporting steel monopoles, three wood poles, overhead conductors and associated equipment. The Commission considered the application under sections 14 and 15 of the *Hydro and Electric Energy Act*.

5. Both transmission lines run through the community of Varsity in the city of Calgary, with 69-15.62L travelling in a north-south alignment along 53rd Street N.W. and 69-16.63L travelling in an east-west alignment along Varsity Estates Drive N.W. The lines converge at the junction of Varsity Estates Drive N.W. and 53rd Street N.W., where they connect with ENMAX No. 16 Substation, as shown on the map in Figure 1. Both lines were relocated to overhead configuration after damage from underground faults.

¹ Transmission Line Permit and Licence 23981-D02-2019, Proceeding 23981, Application 23981-A001, October 16, 2019.

² Permit and Licence EN 98-60, Proceeding 4997, Application 970516, January 5, 1998.

Figure 1. Varsity Northwest Overhead Transmission Structures



2.2 History of Transmission Line 69-15.62L

6. On January 15, 2010, ENMAX applied for approval to replace a faulted underground section of 69-15.62L (approximately 100 m in length) with an overhead configuration on a temporary basis. ENMAX proposed a two-phase process:

- Phase one was the temporary installation of four above-ground transmission structures and associated equipment.
- Phase two would be the removal of the structures installed on a temporary basis and the re-installation of the underground cabling.

7. On March 26, 2010, the Commission approved the temporary overhead solution in Decision 2010-130³ and issued Permit and Licence U2010-132,⁴ subject to the condition that “The Temporary Overhead Termination shall be replaced by an underground termination for the Transmission Line at ENMAX No. 16 substation within 18 months of the date on which this Permit and Licence is issued.”

8. On June 10, 2014, the Commission rescinded Permit and Licence U2010-132 and issued Permit and Licence U2014-203,⁵ which authorized ENMAX to operate Transmission Line 69-15.62L, subject to the condition that “The Temporary Overhead Termination shall remain in place until a permanent arrangement is approved by Commission.”

9. On October 16, 2019, the Commission rescinded Permit and Licence U2014-203 and issued Permit and Licence 23981-D02-2019, which authorized ENMAX to operate Transmission Line 69-15.62L, subject to the condition that “Pursuant to Decision DA2014-135, a temporary overhead termination near ENMAX No. 16 Substation, as described in Application 1605793 and Application 1610588, shall remain in place until a permanent arrangement is approved by the Commission.” To date, the temporary overhead replacement has remained in place.

2.3 History of Transmission Line 69-16.63L

10. In April 2014, ENMAX applied for approval to replace an underground section of Transmission Line 69-16.63L (approximately 210 m in length) with an overhead configuration on a temporary basis, comprised of three self-supporting steel monopoles. ENMAX stated that the underground cable was damaged from a fault and required replacement. The Commission approved the temporary overhead structures in Decision DA2014-96;⁶ however, no amendments were made to Permit and Licence EN 98-60, which remains in effect and authorizes ENMAX to operate Transmission Line 69-16.63L. To date, the temporary overhead replacement has remained in place.

2.4 Application details

11. ENMAX stated that its original proposals to return the overhead replacements to underground configurations were contingent on the Alberta Electric System Operator’s (AESO)

³ Decision 2010-130: ENMAX Power Corporation - Transmission Line 15.62L, Proceeding 458, Application 1605793, March 16, 2010.

⁴ Transmission Line Permit and Licence U2010-132, Proceeding 458, Application 1605793, March 16, 2010.

⁵ Transmission Line Permit and Licence U2014-203, Proceeding 3233, Application 1610588, June 10, 2014.

⁶ Decision DA2014-96: ENMAX Power Corporation – Overhead Replacement for Transmission Line 69-16.63L, Proceeding 3177, Application 1610478, April 17, 2014.

plan to develop the North Calgary Area Transmission (NCAT) project. The NCAT project would have required ENMAX to upgrade its north Calgary 69-kV transmission system to a 138-kV transmission system, thereby providing ENMAX an opportunity to explore and optimize a 138-kV overhead or underground configuration in consultation with the AESO. However, in February 2016, the AESO delayed the NCAT project and eventually cancelled it.⁷

12. ENMAX stated that it continued to develop and evaluate alternatives for a permanent solution to restore the transmission lines to their original underground configurations. ENMAX's evaluation has been affected by:⁸

- Cancellation of the AESO's NCAT project and related projects.
- Material shifts in economic conditions, including market volatility and inflationary pressures.
- Other considerations associated with the remaining expected life of the transmission lines, which are approximately eight to 10 years old and have a 45-year life expectancy.⁹

13. ENMAX explained that the most reasonable and prudent permanent arrangement is to maintain the existing overhead replacements. The associated structures and equipment were designed and constructed to the same specifications and standards as permanent transmission facilities installed elsewhere in ENMAX's transmission system. Hence, the overhead replacements can be operated safely, reliably and economically for the remaining expected life of the transmission lines.

14. ENMAX determined that its original proposal to return the overhead replacements to underground configurations would cost approximately \$4.6 million in 2022.¹⁰ This estimate is comprised of costs with respect to materials, electrical outages, construction costs (i.e., hydrovac, digging, duct work, trenching, road work), road closures, traffic control, construction remediation and machinery costs. ENMAX also stated that the incremental costs would be borne by Alberta ratepayers.

15. ENMAX stated that there are no new construction or operational impacts associated with maintaining the existing overhead replacements. Conversely, an underground configuration could impact the environment, increase noise levels in the area during construction, and construction-related traffic disturbances, road closures, and possible outages associated with the scope of work.

2.5 Interveners

16. The Commission received statements of intent to participate prior to issuing a notice of application, from Capital Ideas Ltd. and John Keating, who is a resident of The Groves of Varsity and was given authority to represent the occupants of The Groves of Varsity by its Board

⁷ Proceeding 28981, Exhibit 23981-X0021, PDF page 5.

⁸ Exhibit 27965-X0001.01, Varsity Northwest Letter of Enquiry - EPC - Transmission Lines 15-62L & 16, PDF pages 6 and 7.

⁹ Exhibit 27965-X0020, 2023-04-14-EPC Responses to AUC Round 1 IRs (001 to 007), PDF page 8.

¹⁰ Exhibit 27965-X0004, Appendix B-1 - Class 3 Cost Estimate for Original Proposals.

of Directors¹¹ (collectively, the Groves). Consequently, the Commission issued a notice of hearing on March 31, 2023.

17. The Commission granted standing to the interveners for the reasons set out in its ruling issued on May 17, 2023. The Commission held a written hearing to consider the application and concerns raised. The registered participants in the proceeding for the written hearing can be found in Appendix A.

3 Discussion and findings

18. The Commission holds hearings to assist it in determining the outcome of an application to meet the public interest mandate set out in Section 17(1) of the *Alberta Utilities Commission Act*. This provision states that, in addition to any other matters it may or must consider, the Commission must give consideration to whether the proposed project is in the public interest, having regard to the social and economic effects of the project and its effects on the environment.

19. Conducting a public interest assessment requires the Commission to assess and balance the competing elements of the public interest in the context of each specific application before it. Part of this exercise is an analysis of the nature of the impacts associated with a particular project, and the degree to which the applicant has addressed these impacts. Balanced against this is an assessment of the project's potential public benefits. The assessment includes the positive and adverse impacts of the project on those nearby, such as landowners and commercial businesses. The Commission assesses cost, consultation, property valuation and other matters as it balances the public interest considerations.

20. An application filed with the Commission must also comply with Rule 007: *Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines*.

21. The Commission has considered the application having regard to the applicable legislative and regulatory framework described above and finds that the application is not in the public interest. The following sections of this decision outline the Commission concerns with ENMAX's application and factors that contributed to the denial of its application.

3.1 Cost

22. ENMAX stated that maintaining the overhead configuration was consistent with the safe, reliable and economic operation of the interconnected electric system and that maintaining the lines in this overhead configuration was aligned with the present-day factors relevant to the exercise of the public interest mandate. In particular, ENMAX outlined that maintaining the overhead configuration was the lowest cost option and therefore the least burdensome on ratepayers.¹²

23. With regard to an underground transmission configuration, ENMAX asserted that the relevant question was whether the additional costs of underground construction, approximately \$4.6 million, were justified by the extent to which impacts to landowners, environmental impacts

¹¹ Exhibit 27965-X0029, AUC 27965 Ltr of Auth J Keating.

¹² Exhibit 27965-X0072, 2023-08-08-EPC-Reply Evidence Varsity NW LOE 15.62L & 16.63L, PDF page 3.

and safety issues would be mitigated. ENMAX explained that it weighed the public interest factors, including the cost of the project, a lack of technical drivers to alter the overhead replacements, the significant remaining expected life of the equipment, the urban character of the area and the potential construction-related impacts and outage considerations, when applying to the Commission to leave the overhead configuration.¹³

24. The Commission agrees that costs to ratepayers is an important factor the Commission considers when assessing the impacts of a transmission project. However, this is not the only factor requiring consideration, as reflected in Decision 27523-D01-2023:¹⁴

49. During argument, there was some dispute as to the significance of costs in selecting the appropriate route. The Commission confirms that costs to ratepayers have always been, and continue to be, an important factor the Commission considers when assessing the impacts of a transmission project. As the Commission has previously explained, the public interest does not require approval of the lowest cost alternative, but the costs of a project can play an important role in the analysis and increased costs to ratepayers can constitute a “very significant factor” in the weighing of impacts. This is particularly true, as is the case in much of this application, when the other impacts of different routes are relatively similar.

25. The Commission looked at costs in Proceeding 27523 where the other impacts of transmission line routing were “relatively similar.” The principle reflected is that lowest cost is a critical discriminator particularly when all other factors are mostly equal. This is consistent with the court’s assessment of what the public interest includes, “what is in the public interest is not a static concept. Given the amorphous nature of the standard, the public interest will vary with the circumstances and the context in which it arises...”¹⁵

26. In the circumstances of this application, the Commission is not convinced that the lowest cost option alone defines the public interest fully, when weighed against the emergency nature and temporary approval of the overhead structures, local impacts and ENMAX’s representations to return the lines underground. In this application, the public interest factors, when considered individually, may not suffice to demonstrate that the lowest cost should not be the primary consideration. However, when considered collectively, these factors provide sufficient grounds for the Commission to conclude that denying this application best serves the public interest.

3.2 Consultation

27. The interveners raised concerns with ENMAX’s stakeholder engagement in previous and current applications. In contrast, ENMAX submitted that it undertook a comprehensive participant involvement program (PIP) that met, and even exceeded, the requirements of Rule 007. The subsections that follow will discuss stakeholder engagement related to applications that were filed in 2010, 2014 and 2023.

3.2.1 Stakeholder engagement related to Transmission Line 69-15.62L

28. The interveners stated that the scope of ENMAX’s PIP, in its 2010 application related to Transmission Line 69-15.62L was unduly limited and, consequently, that the personal

¹³ Exhibit 27965-X0085, 2023-09-01-EPC 16.63L Written Argument, PDF page 10.

¹⁴ Decision 27523-D01-2023: AltaLink Management Ltd. – Transmission Line 150L Rebuild, Proceeding 27523, Application 27523-A001, April 28, 2023, paragraph 49.

¹⁵ *ATCO Electric Limited v. Alberta (Energy and Utilities Board)*, 2004 ABCA 215 (CanLII) paragraph 134.

consultation undertaken by ENMAX in 2010 was deficient and inadequate.¹⁶ ENMAX, however, stated that prior to the filing of the application, area stakeholders were provided an opportunity to understand the project, provide feedback and raise concerns and participate in AUC Proceeding 458. For instance, an intervention was received from a representative of the Varsity Estates Park Condominium Corporation (Condominium Corporation) on February 17, 2010, and it was considered by the Commission prior to the approval of the application. In its letter dated February 17, 2010, the Condominium Corporation indicated its support for ENMAX's modified proposal to install the overhead poles and wires as a short-term, temporary solution while the underground cables were being replaced. The Condominium Corporation requested that a repair time frame of 18 months be a condition of any approval.¹⁷

3.2.2 Stakeholder engagement related to Transmission Line 69-16.63L

29. The interveners also expressed concerns about ENMAX's stakeholder engagement associated with the application that was filed in 2014 related to Transmission Line 69-16.63L. The Groves and Capital stated that ENMAX avoided a comprehensive PIP and as a result, stakeholders were unable to participate in a hearing. In contrast, ENMAX submitted that it undertook a comprehensive PIP and in addition to newsletter distribution, ENMAX undertook door-knocking activities to seek feedback and answer questions. ENMAX further stated that its representatives met with 54 stakeholders, including representatives of the Groves and Capital, as well as tenants of Crowchild Square.

3.2.3 Stakeholder engagement related to current application

30. ENMAX conducted a comprehensive PIP by notifying more than 550 potentially affected stakeholders through the distribution of project information packages to properties in the vicinity, as well as applicable local authorities, agencies, industry and government. Additionally, ENMAX created a website including project details and contact information. ENMAX stated that it conducted personal consultation with Capital prior to the larger distribution of the project information packages to discuss the project and respond to questions and concerns.

31. Capital stated that the communications between it and ENMAX from 2019 through 2022 did not occur as part of an active PIP allowing Capital to intervene or participate in the regulatory process. ENMAX confirmed that communications with Capital in this time frame, up until September 2022, were not part of a PIP process, which is specifically undertaken in the context of a pending application. ENMAX explained that there was no pending application at the times of these prior communications, and therefore, no associated application processes in which Capital could have participated. In addition, ENMAX stated that it had to allocate resources to expedite other priority projects, leading to a deferral of further assessments related to the overhead structures.

32. The Commission acknowledges the complex history of the previous and current proceedings but it refrains from commenting on the PIP conducted by ENMAX in the 2010 and 2014 proceedings, as these were already reviewed by the Commission, and the underlying rationale for approval can be found within the respective decisions. However, the details of the previous PIPs provides important context for the current application.

¹⁶ Exhibit 27965-X0049, AUC 27965 - The Groves of Varsity Evidence, PDF pages 5 to 6.

¹⁷ Decision 2010-130: ENMAX Power Corporation - Transmission Line 15.62L, Proceeding 458, Application 1605793, March 26, 2010, PDF page 4, paragraph 10.

33. The Commission finds that the PIP undertaken by ENMAX for this proceeding meets the requirements of Rule 007. While the Groves and Capital had concerns with the PIP, the program was sufficient to communicate to potentially affected parties the nature, details and potential impacts of the project. Furthermore, it gave potentially affected parties an opportunity to ask questions, express their concerns and provide input into the project.

34. The interveners submitted that ENMAX should be obligated to return the overhead replacements to underground configurations due to stakeholders' reliance on ENMAX's historical communications and commitments. ENMAX agreed that, at various points in the history it had advised stakeholders and the Commission of its intention to restore the overhead replacements to underground configurations. ENMAX confirmed that its intent was largely driven by AESO's plans to upgrade and enhance the north Calgary transmission system. The AESO's cancellation of these plans in 2016 therefore resulted in the loss of one of the primary drivers for the original proposal to return the transmission lines underground. Despite losing one of the primary drivers for the original proposal to return the transmission lines underground in 2016, ENMAX did not notify stakeholders of the cancellation of the AESO's project and the impact it could have on its plans to return the lines underground.

35. In fact, ENMAX's lack of communication to stakeholders between 2016 and November 2022 resulted in Capital filing a complaint letter to the Enforcement division of the AUC on December 1, 2019,¹⁸ which again resulted in ENMAX reiterating its commitment to return the portion of the line in front of 5403 Crowchild Trail N.W. back to an underground configuration while acknowledging the project to convert Transmission Line 69-16.63 to a 138-kV line was cancelled by the AESO in 2016.

36. Based on the foregoing, it appears, even after the AESO project was cancelled, which ENMAX stated was a primary driver for the original proposal to return the transmission lines underground, ENMAX continued to represent and maintain to stakeholders that the lines would be returned underground. It also appears that these ongoing representations and lack of routine updates between applications influenced commercial and private decision-making in the immediate neighbourhood.

37. The interveners asserted throughout the proceeding that ENMAX did not act in good faith and they were misled. In addition, ENMAX stated it could not provide its historical stakeholder information and engagement records as they were lost due to a new information retention system in 2017 and personnel changes in ENMAX's Stakeholder Relations and Regulatory groups since 2014. This limited ENMAX's ability to respond directly to intervener submissions in this proceeding.

38. Accordingly, although the Rule 007 requirements have been met for this application, the Commission believes that some of the intervenor's concerns, such as: visual effects, property values, safety issues, cost, ENMAX's commitments and the consultation process, could have been partially alleviated through more deliberate and ongoing engagement as changes occurred such as the cancellation of the AESO's project in 2016. The Commission considers that ENMAX could have been more open and transparent with the public.

¹⁸ Exhibit 27965-X0045, Attachment C.

3.3 Property valuation

39. The interveners expressed concern that the overhead configuration had an impact on their property values. The Groves stated that property values throughout The Groves of Varsity complex have been negatively affected because of the overhead structures. The Groves filed a letter from Mike Sali, who is a builder representative at the Groves of Varsity, a licensed realtor and a condominium owner. In his letter dated June 22, 2023,¹⁹ M. Sali commented on the probable negative impact of the overhead structures on property values at the Groves of Varsity. The evidence also included J. Keating's claim that his two condos at The Groves of Varsity have never appreciated in value because of their view of the transmission lines.

40. In an information request, the Commission asked the Groves to provide available sales data or other information to demonstrate the correlation between market value at The Groves of Varsity properties and the presence of overhead lines. The Groves stated that there was "no sales data or other information to accurately calculate the impact of the overhead power lines on the market value of either individual condominiums (totaling 299 units), the Manor Village retirement home, or the Professional Building at the Groves" and it cited general research where the effect of overhead transmission lines on property values is discussed.²⁰

41. The Commission has consistently emphasized that property valuation is an intricate and technical process, subject to a diverse range of contextual and circumstantial factors. The Commission's well-established practice is that it cannot make a finding on property value impacts without expert evidence specific to properties adjacent to the project. Opinion evidence without quantitative data supporting the conclusions, even from sources such as an experienced relator, is unhelpful. The Groves did not provide any available sales data or other relevant information to demonstrate that its properties suffer value impairment when the Commission requested further details. Furthermore, the Groves' concern regarding diminished property value was not supported by expert opinion evidence specific to properties potentially impacted by the application.

42. The Commission acknowledges the concerns of interveners regarding property value impacts. However, the Commission requires project-specific evidence from parties, with sufficient specialized expertise, to establish that the overhead structures have a direct adverse impact on property values. Therefore, the Commission places little weight on the evidence of the Groves on this subject.

3.4 Business interests

43. Capital provided submissions indicating that its business interests have been adversely impacted by the overhead structures, resulting in ongoing revenue loss. Capital and its related companies own and manage 21 commercial buildings totalling 450,000 square feet of commercial real estate and two multi-storey concrete apartment buildings, with 42 residential units. Capital explained that since purchasing Crowchild Square in 2003, it planned to build a tower with approximately 200 residential condominium units above approximately 40,000 square feet of office and retail space. Initial efforts began in 2008, with a preliminary design phase, however, Capital indicated that the development was stalled from 2014 until 2016 due to the presence of the interim overhead transmission line. Capital stated that it received an approval for a land use amendment and the land was rezoned in 2017. Further, it planned to move forward

¹⁹ Exhibit 27965-X0049, AUC 27965 - The Groves of Varsity Evidence, PDF pages 18-20.

²⁰ Exhibit 27965-X0060, Groves and John Keating response to AUC IRs July '23, PDF page 2.

with the redevelopment as soon as the overhead replacements were returned underground. Capital stated that it had experienced a financial loss of \$59,243.80 and a loss of future opportunities.²¹

44. To support its claim, Capital provided a comparison between a second shopping centre it has owned since 2003, Valley Ridge, which it considers to be similar with retail and office space to Crowchild Square.²² It admitted that while there were other factors that affected rental conditions, market conditions would impact both locations. Capital stated that the sole distinction between its two properties since 2014 was the introduction of the overhead replacement transmission lines. Capital explained that both locations were neighbourhood shopping centers with Class B suburban office space, and prior to the transmission lines moving overhead, income and rental received between the two properties were similar. Additionally, Capital provided The City of Calgary assessment department's valuation of the two properties for 2010,²³ which showed that prior to 2014, the rent rates for commercial retail unit and second-floor offices were equivalent for both locations.

45. Capital stated that both Crowchild Square and Valley Ridge are located in middle to upper scale northwest communities, featuring second-floor offices above main-floor retail spaces. They share a similar mix of tenants and serve as the primary shopping centres in their respective communities. Both buildings are one to two-storey steel structures with similar features and operating costs, and they both have attractive store fronts and curb appeal with the exception being the temporary power poles.

46. Capital clarified that it refrained from progressing with its development plans due to the lack of a definitive time frame for the removal of the temporary overhead replacements. Capital stated that it had the land use amendment approval and was planning to move forward with the rest of the due diligence required for the redevelopment once the removal time frame from ENMAX was defined. Capital explained that development permits have a two-year time frame, or they expire, and a new application and all associated costs must be made. Given the uncertainty surrounding the timing of returning the overhead replacements back to an underground configuration, Capital chose not to invest funds to proceed with the project and obtain the building permit, avoiding the risk of any development permit becoming stale-dated.²⁴

47. ENMAX argued that Capital lacked adequate evidence to establish the similarity of the two commercial properties for cost comparison purposes. This included factors such as the year of construction, supporting documentation on site layout and amenities, building design and aesthetics, local amenities and competing commercial properties or other development that could impact commercial lease income in the relevant time frame. ENMAX also noted that the 2010 City of Calgary assessment documents provided by Capital were not relevant to the period immediately before or after the overhead replacements were constructed. Therefore, ENMAX argued that these documents offered little, if any, insight into the comparability of lease income between these properties in the relevant time frame.²⁵

²¹ Exhibit 27964-X0077, 2023-08-24 Capital Ideas Ltd. Information Responses - Round 2, PDF page 3.

²² Exhibit 27965-X0067, Capital-AUC-2023JUL17-002 b) Attachment.

²³ Exhibit 27965-X0082, Capital-AUC-2023AUG17-002 Attachment B.

²⁴ Exhibit 27965-X0090, 2023-09-08 Capital Ideas Ltd Reply Argument, PDF page 6.

²⁵ Exhibit 27965-X0085, 2023-09-01-EPC 16.63L Written Argument.

48. The Commission recognizes that while Capital is not classified as an expert witness, it did provide comparative data from two commercial properties to demonstrate the trend in lease rates and vacancy between the two properties. According to Capital's lease data, the average rates per unit area increased by 26.7 per cent for Crowchild Square versus 42.4 per cent for Valley Ridge. Vacancy rates also changed significantly, moving from being mostly similar for Valley Ridge and Crowchild Square to zero per cent versus 9.4 per cent for retail space and 9.4 per cent versus 34.6 per cent for office space, respectively.²⁶ Capital was the sole contributor of data regarding lease valuations for consideration. ENMAX did not offer its own data, but argued that the data provided by Capital did not provide an adequate basis to support the argument that the difference in lease rates and vacancy can be attributed either in whole or in part to the presence of the overhead replacement line. The Commission recognizes this as a deficiency in Capital's evidence; however, Capital successfully established a clear trend in lease rates and vacancy for Crowchild Square from the period before the overhead structures were installed to the present, which was unopposed. Despite this deficiency, the Commission accepts Capital's position that its commercial interests have been negatively impacted by the presence of the overhead replacements and continues to impact Capital's business.

49. Obtaining a land use amendment and commissioning conceptual designs indicate Capital was actively engaged in further development of the property. However, the Commission considers that future developments or projects by Capital have not progressed beyond land use amendment and are still too speculative to be given substantial consideration in the Commission's determination of public interest. It is apparent; however, that the ongoing uncertainty concerning the status of the temporary overhead lines has impacted Capital's business decision-making.

3.5 Other impacts

50. In this section, the Commission addresses several other issues raised by parties that it considers relevant.

51. Interveners expressed concerns regarding the visual impact associated with the overhead replacements. ENMAX stated that the majority of the surrounding community was built around then existing transmission infrastructure, namely ENMAX No. 16 Substation, Transmission Line 69-15.62L and Transmission Line 69-16.63L. Both of the transmission lines were originally constructed and remain in an overhead configuration, except for the short spans of underground cables that went into ENMAX No. 16 Substation and were subsequently replaced by the overhead replacements.

52. ENMAX also stated that the original construction of Transmission Line 69-16.63L and Transmission Line 69-15.62L included wood pole riser structures for both structure 16.63-1 and structure 15.62-1A. These were later replaced as part of the overhead replacements. If the replacements are changed to their original underground setup, these riser structures would remain in place to facilitate the transition from overhead to underground for the transmission lines. This means that only five out of the seven structures proposed for a permanent overhead solution would be removed if the replacements were restored to their original configuration.

53. ENMAX stated that the viewscape from Crowchild Square and The Groves of Varsity includes existing transmission infrastructure, distributions lines, a telecommunication tower,

²⁶ Exhibit 27965-X0064, 2023-07-31 Capital Ideas Ltd. Information Responses, PDF page 4.

streetlights, a major roadway, road signage and light rail transit infrastructure. As a result, the overhead replacements blend with this urban environment, reflecting incremental change while remaining compatible with the surroundings.

54. The Commission agrees with ENMAX that not all units in the Groves' condominium have views of overhead replacements. Visual impact, while an important factor, is just one of several considerations guiding the routing analysis and the AUC's public interest decision. The Commission considers that the evaluation of visual impacts is inherently a matter of subjectivity, but it accepts that the overhead replacements did alter the viewscape when it moved from an underground configuration to overhead and prominently visible. The alteration is the primary factor of interest, not that overhead lines should subjectively be less visually intrusive in a predominantly urban environment.

55. The Capital evidence raises concerns about potential health impacts from electromagnetic fields from the overhead replacements, as well as induction risks due to Crowchild Square's steel structure building. ENMAX stated that the projected levels of the electric and magnetic fields (EMF) are well below the public exposure limits. Additionally, ENMAX explained that the design and distance of the Crowchild Square building negates significant induction risks. ENMAX confirmed that it can provide EMF estimates, as well as in-home measurements, to any stakeholders that request them.

56. The Commission reiterates its position that it does not consider opinion evidence from lay witnesses regarding the health effects of EMF due to the complexity of the subject. Instead, the Commission continues to place significant weight on the World Health Organization's conclusion that, based on available research data, exposure to EMF is unlikely to pose a significant health hazard, and also on Health Canada's conclusion that exposure to EMF from transmission lines is not a demonstrated cause of any long-term adverse effects on human or animal health. Given these considerations and ENMAX's commitment to providing EMF estimates and in-home measurements upon request, the Commission is satisfied that there is no evidence to suggest that EMF from the overhead replacements results in adverse health effects.

57. Interveners raised concerns about fires associated with structure 16.63-1. The Groves attached a letter of support for its objection from local resident Maria McFarland, dated June 27, 2023.²⁷ According to the letter, M. McFarland's parents currently reside on Varsity Estates Road in the house nearest to wood pole 69-16.63-1. The letter indicated that this location had a history of several pole fires.

58. In contrast, ENMAX stated that its records indicate that there was only one fire related to this structure in 2014. At that time it was replaced and positioned farther away from the adjacent property following a landowner's request. ENMAX confirmed that no fires have occurred since 2014. ENMAX also clarified that if it were to restore the original 16.63L underground configuration, structure 69-16.63-1 would still remain in its current location to accommodate the overhead-to-underground transition.

59. The Commission finds the conflicting information concerning; however, given the lack of compelling evidence from any of the involved parties to support their claims, the Commission did not assign any weight to this evidence in its public interest determination.

²⁷ Exhibit 27965-X0049, AUC 27965 - The Groves of Varsity Evidence, PDF pages 21 and 22.

4 Decision

60. As discussed above, the Commission upholds the view that assessing the public interest requires an evaluation of diverse factors that considers context and circumstances. While the increased costs to ratepayers is an important factor in the public interest assessment, it is not necessarily determinative. Stakeholders relied on ENMAX's commitment to restore the overhead replacements back to an underground configuration and the overhead configuration was initially and subsequently approved on an emergency and temporary basis only. The Commission is not convinced that leaving the lines in an overhead configuration is in the public interest in light of the inferred impact on commercial operations and the long-standing representations ENMAX made to stakeholders.

61. The Commission's scope in this proceeding is restricted to either approving or denying ENMAX's letter of enquiry for permanently retaining the overhead structures. The Commission finds that approval of the application is not in the public interest. In accordance with Section 19 of the *Hydro and Electric Energy Act*, the Commission denies the application.

62. While the Commission found that keeping the current overhead configuration is not in the public interest, this does not presuppose the lines must be returned underground. Any subsequent applications will be assessed on their own merits, and the Commission expects ENMAX will consider the appropriate options and factors as it routinely does.

63. Accordingly, the Commission directs ENMAX to file a new application.

Dated on December 6, 2023.

Alberta Utilities Commission

(original signed by)

Matthew Oliver, CD
Commission Member

Appendix A – Proceeding participants

Name of organization (abbreviation) Name of counsel or representative
ENMAX Power Corporation Joyce Cui
Capital Ideas Ltd. Ralph Woessner
The Groves of Varsity John Keating
Alberta Utilities Commission Commission panel Matthew Oliver, Commission Member Commission staff Navreet Bal (Commission counsel) Daria Serba Kyle Surgenor