



ATCO Electric Ltd.

Transmission Line 7L65 Rebuild Project

April 23, 2020

Alberta Utilities Commission

Decision 24102-D01-2020

ATCO Electric Ltd.

Transmission Line 7L65 Rebuild Project

Proceeding 24102

Applications 24102-A001 to 24102-A004

April 23, 2020

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1 Decision summary

1. In this decision, the Alberta Utilities Commission considers whether to approve applications from ATCO Electric Ltd. to construct a new single-circuit 144-kilovolt transmission line, designated as transmission lines 7L134 and 7L65, and to salvage the existing Transmission Line 7L65, located in the Vegreville and Vermilion areas. ATCO Electric proposed a preferred route along with several segments designated as alternate routes.

2. After consideration of the record of the proceeding, and for the reasons outlined in this decision, the Commission finds that approval of the preferred route with the alternate route segment from A55 to X56 is in the public interest, having regard to the social and economic effects of the project and its effect on the environment.

2 Introduction and background

2.1 Applications before the Commission

3. ATCO Electric applied to the Commission, pursuant to sections 14, 15 and 21 of the *Hydro and Electric Energy Act*, requesting approval to rebuild Transmission Line 7L65. ATCO Electric's applications were registered as applications 24102-A001 to 24102-A004 on November 29, 2018.

4. ATCO Electric stated that the existing Transmission Line 7L65 is at the end of its operating life and is currently restricted in operating capacity due to the age and condition of the transmission line, ground clearance issues, and current transformer limitations. ATCO Electric added that the area is experiencing localized load growth and therefore, Transmission Line 7L65 is required to continue operating indefinitely at its full capacity.

5. The existing Transmission Line 7L65 consists of a 22-kilometre-long segment, designated as Transmission Line 7L65, between the Vermilion 710S Substation and the approved but not yet constructed Vincent 2019S Substation, and a 77-kilometre-long segment, between the Vincent 2019S and Vegreville 709S substations, which will be redesignated as Transmission Line 7L134 upon completion of the Vincent 2019S Substation. ATCO Electric requested approval to:

- Construct approximately 22 kilometres of single-circuit 144-kilovolt (kV) transmission line, designated as Transmission Line 7L134, connecting the existing Vegreville 709S Substation to the approved Vincent 2019S Substation.
- Construct approximately 77 kilometres of single-circuit 144-kV transmission line, designated as Transmission Line 7L65, connecting the approved Vincent 2019S Substation to the existing Vermilion 710S Substation.

- Alter the approved but not yet constructed Transmission Line 7LA65.
- Alter existing Transmission Line 7L129.
- Decommission and remove all structures of the existing 144-kV Transmission Line 7L65 that are not required to remain as part of the new 7L65 and 7L134 transmission lines¹ (the project).

6. ATCO Electric submitted a preferred route and multiple alternate route segments as shown in the figure below.

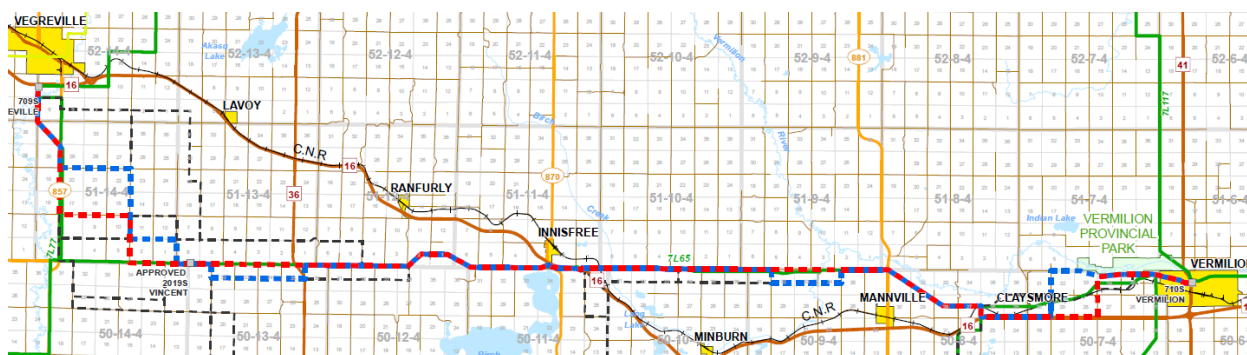


Figure 1. Proposed transmission line routes²

7. On November 1, 2019, ATCO Electric amended its application by altering a section of the preferred route and adding an additional alternate route. The amended segments are detailed in the figure below.

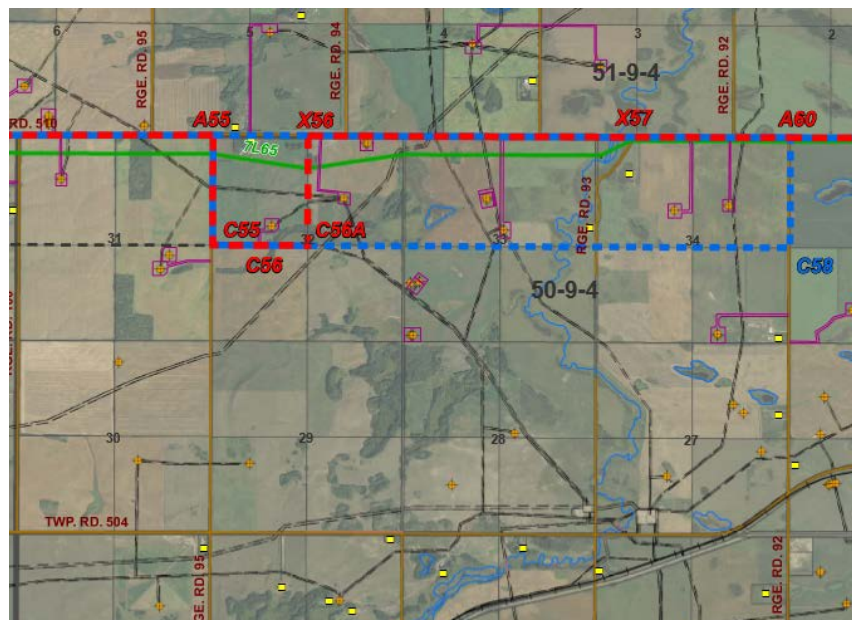


Figure 2. Amended route segments³

¹ ATCO clarified the portions that would remain in place in Exhibit 24102-X0200, ATCO-Undertaking 006.

² Exhibit 24102-X0008, Atch 4_7L65 Line Rebuild_Reference Map.

³ Exhibit 24102-X0143, ATCO_Amendment_Application_7L65_24102.

8. ATCO Electric stated that construction of Transmission Line 7L65 would occur in three phases. The first phase from the Vincent 2019S Substation to Node A33, which will coincide with the construction of Transmission Line 7L134, is scheduled to commence in 2020 with a targeted in-service date of 2021. The second phase from the Vermilion 710S Substation to Node A64, is tentatively scheduled to start in 2022 with a target in-service date of 2023. The third phase from Node A33 to Node A64, is scheduled to start in 2024 with an in-service date in 2025.⁴ The project is estimated to cost \$71,519,071 and is classified as capital maintenance.⁵

2.2 Process

9. On January 31, 2019, the Commission issued a notice of applications in accordance with Section 7 of Rule 001: *Rules of Practice*. The Commission received statements of intent to participate from numerous parties, including from persons who own or occupy land near the project area and from three rural electrification associations; Braes REA, Claysmore REA and Lakeland Rural Electrification Association Limited (Lakeland REA). A number of the landowners joined together to form the TWP510 - ZL65 Land Owner's Group (TZLG).

10. The Commission issued three standing rulings granting standing to a number of parties, including the TZLG, Braes REA, Claysmore REA and Lakeland REA.

11. The Commission issued a notice of hearing on May 2, 2019, which set out process steps, including the commencement of an oral hearing on July 23, 2019. However, on July 5, 2019, the Commission granted a motion from ATCO Electric to adjourn the hearing to allow ATCO Electric additional time to consult with stakeholders and consider recently proposed route adjustments.

12. ATCO Electric filed an application amendment on November 1, 2019, and requested that the Commission resume consideration of the proceeding and establish a further process schedule. The Commission resumed consideration of Proceeding 24102 on November 14, 2019, and issued a notice of hearing which outlined process steps and the commencement of an oral hearing on February 4, 2020, in the town of Vegreville.

13. On November 4, 2019, representatives for the Braes and Claysmore REAs registered a submission confirming that they had settled all outstanding questions and concerns with ATCO Electric and supported the preferred route.⁶

14. The hearing commenced on February 4, 2020, in the town of Vegreville before a panel comprised of Commission members Neil Jamieson (panel chair), Joanne Phillips and Acting Commission Member Patrick Brennan.

3 Legislative scheme

15. The Commission has considered these applications having regard to the applicable legislative and regulatory frameworks. In particular, these applications were assessed under sections 14, 15 and 21 of the *Hydro and Electric Energy Act*, and Section 17 of the

⁴ Exhibit 24102-X0001, Attachment 1 - 7L65 Line Rebuild Application Text, PDF page 17.

⁵ Exhibit 24102-X0148, ATCO-AUC-2019NOV18-002-Attachment 1.

⁶ Exhibit 24102-X0144, Letter re: Braes and Claysmore REAs support Amended Application.

Alberta Utilities Commission Act. Section 17 of the *Alberta Utilities Commission Act* describes the Commission's public interest mandate, which states:

Public interest

17(1) Where the Commission conducts a hearing or other proceeding on an application to construct or operate a hydro development, power plant or transmission line under the *Hydro and Electric Energy Act* or a gas utility pipeline under the *Gas Utilities Act*, it shall, in addition to any other matters it may or must consider in conducting the hearing or other proceeding, give consideration to whether construction or operation of the proposed hydro development, power plant, transmission line or gas utility pipeline is in the public interest, having regard to the social and economic effects of the development, plant, line or pipeline and the effects of the development, plant, line or pipeline on the environment.

16. Rule 007: *Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations and Hydro Developments* applies to the construction and operation of power plants, substations and transmission lines, which are governed by the *Hydro and Electric Energy Act*. An application must meet the informational and other requirements set out in Rule 007. Specifically, an applicant must provide technical and functional specifications, information on public consultation, environmental and land-use information, including a noise impact assessment. The application must also meet the requirements set out in Rule 012: *Noise Control*. Further, an applicant must obtain all approvals under other applicable provincial or federal legislation.

17. The Commission has also considered Section 18 of the *Hydro and Electric Energy Act*, and in particular Subsection 18(2)(d). Section 18 states [emphasis added]:

Connections

18(1) The owner or operator of a power plant, transmission line or electric distribution system shall not connect that power plant, transmission line or electric distribution system, or cause or permit it to be connected,

- (a) to any other power plant, transmission line or electric distribution system, unless the connection is in accordance with an order under this section, or
- (b) to any industrial system or other service where the connection may seriously affect the operation of an interconnected electric system or a communications system as prescribed in the regulations.

(2) The Commission, either on its own initiative or on application or complaint in writing, may, with the authorization of the Lieutenant Governor in Council and by order in writing directed to the owner of a power plant, transmission line or electric distribution system,

- (a) if on the application of the owner or operator, approve the plans of the owner subject to any modification or alteration the Commission considers desirable, or deny the application,

- (b) require the owner to connect the owner's works with other works or proposed works owned by the owner or by any other owner of a power plant, transmission line or electric distribution system,
- (c) require the owner to suspend the use of any connection if, in the opinion of the Commission, the continuation of a connection may seriously affect the operation of any interconnected electric system or communications system, or

(d) require the owner to share and participate or otherwise combine its interests for the transmission or distribution of electric energy with any other owner of a transmission line or electric distribution system,

and may prescribe any terms and conditions the Commission considers suitable.

(3) Repealed 2003 cE-5.1 s164.

(4) Notwithstanding subsection (2), the Commission may issue a direction under that subsection without the authorization of the Lieutenant Governor in Council when the interconnection is not for the purpose of interprovincial or international transmission of electric energy.

(5) The owner or operator of a power plant, transmission line or electric distribution system applying for an order for the connection of its works with other works or proposed works shall file with the Commission

- (a) particulars of the proposed connection,
- (b) if the other works or proposed works are those of another owner, particulars of the operating agreement with the other owner, and
- (c) any related information that the Commission requires.

(6) When the Commission directs anything to be done under this section, it may also order when or within what time and on what terms and conditions, except as to the amount, as to payment of compensation or otherwise and under what supervision the thing directed to be done is to be carried out.

(7) When as a result of an order under this section compensation is payable and agreement on the amount of compensation cannot be reached, the amount shall be determined by the Alberta Utilities Commission on the application of an interested party.

4 Subsection 18(2)(d) of the Hydro and Electric Energy Act

18. On November 1, 2019, ATCO Electric filed an amendment to its application that proposed a new preferred route segment to address the concerns of nearby landowners and the Braes and Claysmore REAs.

19. The amendment also sought an order pursuant to Subsection 18(2)(d) of the *Hydro and Electric Energy Act* directing the combining and sharing of ATCO Electric's transmission assets for the project with the distribution assets of Lakeland REA should the Commission approve specific route segments. Specifically, ATCO Electric indicated that certain

segments of the route would require that distribution lines owned by Lakeland REA be salvaged, and a new REA distribution conductor be understrung on the proposed transmission structures. ATCO Electric indicated that it had reached an agreement with the Braes and Claysmore REAs to understring their conductors on segments of the proposed transmission line, but also requested a similar order if the Commission deemed it necessary.⁷

20. On January 23, 2020, the Commission issued a letter that stated:

The Commission wishes to better understand the parties' positions with respect to the applicability of Section 18 of the *Hydro and Electric Energy Act* as it relates to the order sought by ATCO Electric pursuant to Subsection 18(2)(d) of the act. Section 18 is entitled "Connections" and its focus is the connection of electric facilities (power plants, transmission lines or distribution systems) to other electric facilities. The Commission notes that there is no connection being applied for between ATCO Electric's proposed transmission facilities and the REA's distribution facilities. Accordingly, the Commission requests that parties include in their written argument submissions on the interpretation of Subsection 18(2)(d) as it relates to the issues before the Commission in this proceeding.⁸

21. The Braes and Claysmore REAs, Lakeland REA and ATCO Electric each provided submissions on this issue in their argument; Lakeland REA and ATCO Electric provided additional responses in their reply argument.

4.1 Views of the Braes and Claysmore REAs

22. The Braes and Claysmore REAs, who filed a joint submission, took the position that no additional order pursuant to Subsection 18(2)(d) of the act was required in this proceeding, as there would be no actual connection between the assets of the REAs and ATCO Electric. Further, the REAs stated that although Subsection 18(2)(d) authorizes the Commission to require co-operation between distribution systems and transmission systems, when the context of the whole of Section 18, and the purposes of the *Hydro and Electric Energy Act*, are taken into consideration, this section is unlikely to apply to understringing.⁹

23. The Braes and Claysmore REAs suggested Driedger's modern principle as the method to follow for statutory interpretation of the language in Subsection 18(2)(d) of the *Hydro and Electric Energy Act*. This principle requires the Commission to read the words of the *Hydro and Electric Energy Act* in their entire context, in their grammatical and ordinary sense, harmoniously with the scheme of the act, the object of the act and the intention of parliament.

24. In interpreting Subsection 18(2)(d) of the *Hydro and Electric Energy Act*, the Braes and Claysmore REAs referred to the act's purpose, which it identified in Section 2, and emphasized the following excerpt from Subsection 2(b):

To secure the observance of safe and efficient practices in the public interest...in the generation, transmission and distribution of electric energy in Alberta...¹⁰

⁷ Exhibit 24102-X0143, ATCO_Amendment_Application_7L65_24102.

⁸ Exhibit 24102-X0175, Request for argument on the applicability of Subsection 18(2)(d) of the *Hydro and Electric Energy Act*.

⁹ Exhibit 24102-X0203, Final Argument of Braes and Claysmore REA, paragraph 27.

¹⁰ Exhibit 24102-X0203, Final Argument of Braes and Claysmore REA, paragraph 29.

25. The Braes and Claysmore REAs proceeded to interpret Subsection 2(b) as indicative of, “the Legislature’s intention to ensure a balance between the returns of the utility and the costs to the customer while observing safe and efficient practices in (for this case) the transmission and distribution of electric energy in Alberta.”¹¹

26. The Braes and Claysmore REAs stated that applying the above suggests that Subsection 18(2)(d) does apply to “connections,” and that based on the purpose and intent of the *Hydro and Electric Energy Act*, “connections” refers to the exchange of energy, and not to proximity or where an asset is housed. As a result, understringing is not a “connection.”¹² They further stated that in consideration of the meaning of “connections,” and the purpose and intent of the *Hydro and Electric Energy Act*, applying Subsection 18(2)(d) to understringing would be *ultra vires*.¹³

4.2 Views of Lakeland REA

27. Lakeland REA argued that the intent of Section 18 is to enable transmission or distribution system owners wishing to connect to another party’s transmission or distribution system where the connection may seriously affect the operation of the interconnected electric system.¹⁴ It argued that the meaning assigned to “connection” in this context did not include the co-location of distribution facilities with another party’s transmission facilities, as is proposed by ATCO Electric. Furthermore, Lakeland REA submitted that the understringing sought by ATCO Electric in a Section 18 order requires the particulars of an operating agreement between ATCO Electric and Lakeland REA to be filed with the Commission pursuant to Subsection 18(5). Lakeland REA noted that ATCO Electric has failed to provide the Commission with an operating agreement which references “understringing” as proposed, and therefore is not eligible to have its request for an order under Subsection 18(2)(d) granted.¹⁵

28. Lakeland REA pointed to Subsection 5.1.2 of Rule 007, and stated that this section’s reference to Section 18 of the *Hydro and Electric Energy Act* further reinforces its position that the context of connections in Section 18 is with regard to the sharing of conductors.¹⁶

29. In its reply argument, Lakeland REA stated that the language used in Section 18(4) of the *Hydro and Electric Energy Act*, specifically its referral to Section 18(2) and use of the term “interconnection,” suggests that the whole of Section 18(2) refers to “connections.”¹⁷

30. Lakeland REA further stated that although it is common for an REA’s distribution facilities to be understrung on ATCO Electric’s transmission facilities, there is no evidence before the Commission that such understringing has been sought or granted pursuant to Subsection 18(2)(d) of the *Hydro and Electric Energy Act*. Lakeland REA argued that ATCO Electric is seeking a selective literal interpretive approach to the terms “share and participate” or “otherwise combine” rather than a purposive approach that looks at the interpretation of those terms in light of the purpose of the whole section. Lastly, Lakeland REA noted that Section 18(2) flows from Section 18(1) and is not standalone, suggesting that all of

¹¹ Exhibit 24102-X0203, Final Argument of Breas and Claysmore REA, paragraph 30.

¹² Exhibit 24102-X0203, Final Argument of Breas and Claysmore REA, paragraph 27.

¹³ Exhibit 24102-X0203, Final Argument of Breas and Claysmore REA, paragraph 40.

¹⁴ Exhibit 24102-X0204, TZLG & LREA Final Argument, paragraph 210.

¹⁵ Exhibit 24102-X0204, TZLG & LREA Final Argument, paragraph 207.

¹⁶ Exhibit 24102-X0204, TZLG & LREA Final Argument, paragraph 213.

¹⁷ Exhibit 24102-X0218, Reply Argument of TZLG and LREA, paragraph 49.

Section 18 refers to “connections” and that Section 18(4) uses the term “interconnection,” which confirms that Section 18(2) and its subprovisions are for facilitating a connection order request.¹⁸

4.3 Views of ATCO Electric

31. ATCO Electric stated that it is a common arrangement to combine facilities in Alberta, and there are already other Lakeland REA facilities understrung on ATCO Electric’s transmission lines in the area of the project, as well as on other ATCO Electric distribution facilities.¹⁹ ATCO Electric further submitted that co-location of facilities promotes the “economic, orderly and efficient development and operation, in the public interest, of ... the ... transmission of electric energy in Alberta as contemplated in section 2(a) of HEEA [*Hydro and Electric Energy Act*].”²⁰

32. ATCO Electric stated that it agrees there is “no connection” proposed between Lakeland REA’s distribution facilities and the proposed transmission line, and confirms that Lakeland REA is seeking “co-location” of these facilities, not a connection.²¹ ATCO Electric further stated that “co-location” is permitted pursuant to Subsection 18(2)(d) of the *Hydro and Electric Energy Act*, and noted that in contrast, sections 18(1) and 18(2)(b) refer to “connection.” It argued that “connection” is defined by the Canadian Oxford Dictionary as including, “the linking up of an electric current by contact” and “join to a source of electricity, gas, water, etc.” and therefore the flow of electricity between two points is essential to these definitions.²² In further support of this position, ATCO Electric referred to Decision 22245-D01-2017²³ in which the Commission refers to an order under Section 18 to connect components to facilitate the flow of electricity through the newly joined equipment.

33. However, ATCO Electric noted that in contrast, Subsection 18(2)(d) of the *Hydro and Electric Energy Act* does not use the terms “connection” or “connect,” and instead requires an owner of a transmission line or electric distribution system to “share and participate” or otherwise “combine” its interests with a different owner. It submits that the use of the phrase “share and participate” is intentional and must mean something other than “connect.” Further, ATCO Electric stated that to equate the phrase “share and participate or otherwise combine” to “connection” would render the phrase meaningless, which is contrary to the principles of statutory interpretation and cannot reasonably have been the legislature’s intent.²⁴

34. With respect to statutory interpretation, ATCO Electric agreed that the modern principle must be applied, and that the plain and ordinary meaning of “share and participate or otherwise combine” must be used. ATCO Electric referred to the Canadian Oxford Dictionary, and stated that the applicable definition of “share” is to “use or benefit from jointly with others,” and the applicable definition of “combine” is to “join together, unite for a common purpose.” Further, ATCO Electric stated that “otherwise combine” is sufficiently broad to include the proposed co-location of Lakeland REA’s facilities with ATCO Electric’s. ATCO Electric concluded that the transfer of electricity is not a prerequisite to the application of Subsection 18(2)(d) of the

¹⁸ Exhibit 24102-X0218, Reply Argument of TZLG and LREA, paragraph 49.

¹⁹ Exhibit 24102-X0205, Final Argument of ATCO Electric Ltd., paragraph 164.

²⁰ Exhibit 24102-X0205, Final Argument of ATCO Electric Ltd., paragraph 165.

²¹ Exhibit 24102-X0205, Final Argument of ATCO Electric Ltd., paragraph 167.

²² Exhibit 24102-X0205, Final Argument of ATCO Electric Ltd., paragraph 170.

²³ Decision 22245-D01-2017: Tourmaline Oil Corporation – Mulligan Oil Battery Power Plant, Proceeding 22245, Application 22245-A001, February 15, 2017.

²⁴ Exhibit 24102-X0205, Final Argument of ATCO Electric Ltd., paragraph 172.

Hydro and Electric Energy Act, and therefore it is within the Commission's power to grant the order as requested.²⁵

35. ATCO Electric stated that pursuant to the Alberta *Interpretation Act*, section headings do not override otherwise clear statutory language. ATCO Electric further noted that the Alberta Court of Appeal has said that headers may be referred to for interpretive assistance when the meaning of a particular statutory interpretation is not clear; however, section headers cannot be referenced to adopt an interpretation that is at odds with the actual plain wording of the statutory provision.²⁶

36. In response to the interveners' arguments, ATCO Electric confirmed that it is not seeking a "connection" as described in Section 18 of the *Hydro and Electric Energy Act*, and therefore no operating agreement is needed pursuant to Section 18(5) of the act.²⁷

37. Lastly, ATCO Electric argued that even if the Commission does not agree that Subsection 18(2)(d) applies to this proceeding, the Commission still has the jurisdiction to approve the project, including understringing, pursuant to sections 2 and 19(1) of the *Hydro and Electric Energy Act* and Section 8 of the *Alberta Utilities Commission Act*.²⁸

38. In its reply argument, ATCO Electric noted that Lakeland REA did not address the meaning of "share and participate or otherwise combine" in its submissions, and instead focused on the terms "connect" and "connection" which do not appear in Subsection 18(2)(d). ATCO Electric also noted that Lakeland REA cited the Commission's Rule 007, Section 5, in support of sharing of conductors, and argued that Rule 007 does not govern Subsection 18(2)(d) of the *Hydro and Electric Energy Act*. Further, ATCO Electric argued that if the Commission were to restrict its interpretation of Subsection 18(2)(d) to Rule 007, this would result in an impermissible fettering of the Commission's discretion.²⁹

4.4 Commission findings

4.4.1 Statutory interpretation

39. Both ATCO Electric and the Braes and Claysmore REAs indicated in their submissions that Driedger's modern principle of statutory interpretation was the appropriate method to follow when interpreting Section 18 of the *Hydro and Electric Energy Act*. Lakeland REA did not specifically refer to Driedger's modern principle, but did indicate the need to apply a purposive approach to interpretation which considers the purpose of the "whole section" of the legislation.

40. In *FortisAlberta Inc. v Alberta (Utilities Commission)*, 2015 ABCA 295, the Alberta Court of Appeal confirmed the general principles of statutory interpretation. The following passage at paragraph 102 is applicable to this proceeding.

As in any exercise of statutory interpretation, it is important to bear in mind the starting point of Driedger's principled approach: that the words of the Act are to be read in their entire context and in their grammatical and ordinary sense in harmony with the scheme and object of the Act and the intention of the legislature: *Rizzo & Rizzo Shoes Ltd., Re*,

²⁵ Exhibit 24102-X0205, Final Argument of ATCO Electric Ltd., paragraph 173.

²⁶ Exhibit 24102-X0205, Final Argument of ATCO Electric Ltd., paragraph 175.

²⁷ Exhibit 24102-X0219, ATCO Reply Argument, paragraph 186.

²⁸ Exhibit 24102-X0205, Final Argument of ATCO Electric Ltd., paragraphs 178 to 180.

²⁹ Exhibit 24102-X0219, ATCO Reply Argument, paragraph 178.

[1998] 1 S.C.R. 27, 154 D.L.R. (4th) 193 (S.C.C.) at para 21. In a complex statutory scheme such as the one governing the regulation of public utilities in Alberta, it is also essential to interpret the various statutes in a manner that ensures harmony, coherence and consistency among them: *Bell ExpressVu Ltd. Partnership v. Rex*, 2002 SCC 42, [2002] 2 S.C.R. 559 (S.C.C.) at para 27.

41. Additionally, the Commission itself has more recently reiterated the general principles of statutory interpretation in Decision 23418-D01-2019.³⁰ The following passage at paragraph 84 also informs the Commission in this proceeding.

The starting point for interpreting Section 2(1)(b) is Driedger's modern principle of statutory interpretation. The Supreme Court of Canada explained Driedger's principle and its application to the statutory scheme administered by the Commission in *ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board)*. The Court stated that the principle requires that "the words of an act are to be read in their entire context, in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act and the intention of Parliament." The court clarified that it looks first at the grammatical and ordinary meaning of a provision and then examines the entire statutory context and legislative intent. The Court concluded: "the ultimate goal is to discover the clear intent of the legislature and the true purpose of the statute while preserving the harmony, coherence and consistency of the legislative scheme."

42. The Commission confirms that Driedger's modern principle is to be applied to the statutory interpretation of Section 18 of the *Hydro and Electric Energy Act* in this proceeding. Further, the Commission also confirms that it may not adopt an interpretation of its legislation that is inconsistent with, or frustrates, the intention of the legislature and the purpose of the act.

4.4.2 Interpretation of "connect" and "connection"

43. Each of ATCO Electric, Lakeland REA and the Braes and Claysmore REAs agreed that the terms "connect" and "connection" in Section 18 of the *Hydro and Electric Energy Act*, although not defined in the act, should be interpreted to indicate a linking or joining of two points between which there will be a flow of electricity. Further, ATCO Electric acknowledged that it is not proposing a "connection" between Lakeland REA's distribution facilities and ATCO Electric's transmission line. Accordingly, the Commission does not find it necessary to provide any further determination on or interpretation of "connect" and "connection" in this proceeding, as it relates to the interpretation of Section 18(2) of the *Hydro and Electric Energy Act*.

4.4.3 Interpretation of "share and participate or otherwise combine" in Subsection 18(2)(d) of the Hydro and Electric Energy Act

44. ATCO Electric's application amendment seeking an order pursuant to Subsection 18(2)(d) of the *Hydro and Electric Energy Act* turns on the interpretation of "share and participate or otherwise combine" as it is applied in this section. ATCO Electric took the position that the words "connect" and "connection" have been purposely omitted from this subsection, and that this indicates the legislature's intent for this section to apply more broadly than just to connections.

³⁰ Decision 23418-D01-2019, EPCOR Water Services Inc. – E.L. Smith Solar Power Plant, Proceeding 23418, Application 23418-A001, February 20, 2019.

45. In interpreting the *Hydro and Electric Energy Act*, the Commission has considered Section 10 of the Alberta *Interpretation Act*, which states:

10 An enactment shall be construed as being remedial, and shall be given the fair, large and liberal construction and interpretation that best ensures the attainment of its objects.

46. Driedger's modern principle of statutory interpretation is consistent with Alberta's *Interpretation Act*.

47. In applying these principles of statutory interpretation, the Commission has therefore read the provisions of Section 18 in their entire context harmoniously with the scheme of the *Hydro and Electric Energy Act*, giving it a liberal construction and interpretation that best ensures the attainment of its objects.

48. The Commission is of the view that the legislature intended Section 18 of the act to apply to connections of the nature described in Section 4.4.2 of this decision. The following subsections in particular are applicable to ATCO Electric's request:

- Section 18(1) describes that no connection can be made between power plants, transmission lines or electric distribution systems without an order under Section 18. This section clearly references "connection," which ATCO Electric has conceded does not apply to their request for a Subsection 18(2)(d) order.
- Subsection 18(2)(a) describes the Commission's authority to approve, alter or deny the application of an owner or operator that has made its application pursuant to Section 18(1), with the goal of connecting its power plant, transmission line or electric distribution system with another.
- Subsection 18(2)(b) refers to the Commission's authority to order a connection between an owner's works with other works.
- Subsection 18(2)(c) refers to the Commission's authority to suspend the use of any connection if the prescribed conditions are met.
- Section 18(4) clarifies that although the Commission requires the authorization of the lieutenant-governor in council to issue orders pursuant to Section 18(2), this authorization is not required if the interconnection, or "connection," is not for the purpose of interprovincial or international transmission of electric energy. Therefore, if the connection being sought is for use strictly within the province of Alberta, the Commission need not obtain the authorization of the lieutenant-governor in council to order or approve the connection being sought.

49. The Commission notes that all of the above-referenced sections clearly refer to "connections." ATCO Electric conceded that it is not seeking a "connection" in its request for a Subsection 18(2)(d) order, and instead took the position that since the words "connect" and "connection" are not present in Subsection 18(2)(d), this section must apply to something separate and distinct from connections.

50. ATCO Electric has argued that given the omission of "connect" and "connection" from Subsection 18(2)(d), a finding by the Commission that Subsection 18(2)(d) applies to

“connections” would equate the phrase “share and participate or otherwise combine” with “connection,” which would render the phrase meaningless contrary to principles of statutory interpretation. The Commission disagrees. When considering the plain and ordinary meaning of “share and participate or otherwise combine,” the Commission accepts that the meaning is different from “connect” or “connection.” However, when reading the phrase “share and participate or otherwise combine” in the context of Section 18, and in harmony with the scheme and object of the act, it is the Commission’s view that the legislature did not intend “share and participate or otherwise combine” to replace “connect” or “connection,” but rather intended Subsection 18(2)(d) to capture the combining of interests that are required or necessary **as a result** of the connections being approved (or suspended) pursuant to Subsections 18(2)(a), (b) and (c).

51. In the Commission’s view, ATCO Electric’s interpretation of Subsection 18(2)(d) is at odds with the plain and ordinary meaning of the provision, and is inconsistent with the statutory scheme. The Commission finds that Subsection 18(2)(d) of the *Hydro and Electric Energy Act* does not apply to, or permit, the issuance of an order by the Commission directing the understringing of Lakeland REA’s distribution facilities on ATCO Electric’s transmission facilities.

5 Procedural matters

52. During the oral hearing, counsel for ATCO Electric objected to the direct evidence of Lakeland REA and the TZLG witnesses stating that the purpose of a direct evidence panel is not to provide rebuttal to witnesses that preceded them in the hearing. The Commission made oral rulings on this during the hearing but believes it is appropriate to address this issue to further clarify the latitude a witness has during direct examination; more specifically, the Commission’s interpretation of the procedure in Section 42.2 of Rule 001 with respect to direct evidence in this hearing. To assist the reader, a brief summary of the two objections follows.

53. The first objection was raised during the direct examination of the Lakeland REA witness panel by Lakeland REA’s counsel.³¹ The second objection was raised during the direct examination of an expert witness for the TZLG.³² In each instance, the objection followed a solicitation by Lakeland REA/TZLG counsel of the witness panel’s comments on the previously completed cross-examinations of ATCO Electric’s witness panel. The question that arose in both instances was whether or not a witness’s testimony must be confined to the matters set out in the documentary evidence during the direct evidence submissions.

54. Section 42 of Rule 001 provides guidance on this issue and is reproduced below [emphasis added]:

42 Presenting evidence

...

42.2 A witness of a party presenting evidence at an oral hearing shall

(a) confirm that the documentary evidence

³¹ Transcript, Volume 2, page 281, lines 6 to 21.

³² Transcript, Volume 3, page 400, lines 1 to 3.

- (i) was prepared by the witness or under the witness's direction or control, and
- (ii) is accurate to the best of the witness's knowledge or belief; and

(b) unless the Commission otherwise directs, confine the witness's testimony to matters set out in the documentary evidence or arising from evidence adduced in questioning.

55. The Commission's hearing process letter also utilizes this same emphasized language.³³ At issue in both objections is whether the language "or arising from evidence adduced in questioning" in Section 42.2(b) permits a witness to include in their testimony comments or submissions speaking to matters which arose during the questioning of a different witness panel within the hearing.

56. In response to the first objection, the Commission ruled that its practice is to require that direct evidence submissions be confined to the pre-filed evidence in matters adduced through cross-examination. Further, it ruled that it is a reasonable expectation that what intervenor witnesses intend to present be reflected in materials filed in a fulsome way. However, in this case, the Commission allowed the Lakeland REA witnesses to provide their additional rebuttal and in order to ensure procedural fairness, it looked to counsel for ATCO Electric to consider whether it would require any additional time before cross-examination or if it wished to request an oral rebuttal panel. Lastly, the Commission ruled that parties have the opportunity to further address these additional submissions and the weight that the Commission should afford them in their written argument.

57. In response to the second objection, the Commission ruled that it would hold expert witnesses to a higher standard within the hearing process, relative to the latitude that it granted in its earlier ruling regarding interveners. The Commission cited its previous ruling from the 2009 Generic Cost of Capital proceeding:

3. ... the Commission considers that opening statements should not contain new evidence, nor should they be used as a platform to rebut the written evidence of other parties or the testimony of witnesses that have preceded them in the proceeding, except to the extent that such rebuttal is already set out in their pre-filed evidence. The introduction of any such new evidence or rebuttal is potentially unfair to other participants in the proceeding who have not had an opportunity to consider, test or respond to that evidence.³⁴

58. It is important to clarify that the opening statement forms part of the witness's testimony. Hence, the guidance provided by the Commission in the above-referenced ruling applies to a witness's testimony as identified in Section 42.2(b) of Rule 001.

59. Accordingly, the Commission ruled that TZLG's expert witness's statements should be confined to pre-filed evidence or what was written on the record only.

³³ Exhibit 24102-X0174, AUC letter to parties – Process for hearing, paragraph 6.

³⁴ Proceeding 85, Application 1578571, Exhibit 0361.01.AUC-85, Commission Ruling on CAPP Opening Statements - June 11, 2009.

60. The Commission wishes to emphasize that its ruling in response to the first objection is to be considered an exception, made in this specific circumstance following careful consideration of potential prejudice to ATCO Electric, and the feasibility of mitigating that prejudice. The Commission has the authority to control its own process, and recognizes that interveners to facility applications may not always be well versed in the Commission's rules and processes. However, the Commission expects that where interveners retain counsel, it is the responsibility of that counsel to be familiar with the Commission's rules and to inform their clients accordingly. As is made evident by its second ruling, the Commission expects that expert witnesses that appear before it are also familiar with its rules. The Commission considers that given the nature of their evidence, an expert witness introducing new evidence is likely to result in a greater prejudice to opposing parties than that of a lay witness.

61. Regardless, it should not be the expectation that the Commission will continue to grant leeway to any party. For clarity, the Commission stresses that a witness's testimony:

- Should provide a high-level summary of the party's evidence and the conclusions the party has drawn from that evidence as reflected in its previously filed direct evidence.
- Must be provided in a manner that is procedurally fair to all parties.
- Should not contain new evidence, nor should it be used as a platform to rebut the written evidence of other parties or the testimony of witnesses that have preceded them in the proceeding, except to the extent that such rebuttal is already set out in their pre-filed evidence.

6 Consultation

6.1 Views of ATCO Electric

62. ATCO Electric stated that it undertook a comprehensive participant involvement program in accordance with Rule 007. As part of the program, ATCO Electric notified landowners, agencies and other potential interested parties within 800 metres of the project, and conducted individual consultations with all landowners, occupants, agencies, industries, and other interested parties within 100 metres of the project. The program included multiple rounds of consultation and notification and also featured three open houses held in 2017. ATCO Electric indicated it would continue to contact stakeholders, including notifying stakeholders directly affected by the approved route, of the construction schedule and details prior to construction.

63. ATCO Electric submitted that its consultation with parties played an important role in the planning of the project. It stated that the proposed routes were selected based on general routing and siting criteria, environmental analysis, as well as input from stakeholders potentially affected by the project.

64. In response to specific landowner consultation complaints, ATCO Electric provided a summary of its consultation records with TZLG members. ATCO Electric stated that failure to win over every stakeholder and eliminate all opposition should not be confused with an inadequate consultation program and that "[m]any individuals will simply not be satisfied with consultation unless the transmission line is shifted off of their land and on to another's property." ATCO Electric submitted that even though some stakeholders may still be unsatisfied with

ATCO Electric's proposed routes, the evidence demonstrates that ATCO Electric considered stakeholder feedback in its route selection process and that its participant involvement program met the requirements of Rule 007.³⁵

6.2 Views of the interveners

65. Bernie Klammer stated that Lakeland REA had met with ATCO Electric on several occasions but that ATCO Electric did not satisfactorily address its concerns. Darryl Werstiuk added that Lakeland REA does not feel that ATCO Electric has worked collaboratively and co-operatively.³⁶

66. The TZLG stated that its members participated in the consultation process conducted by ATCO Electric, spending time reviewing information and materials, and attending open houses, and one-on-one meetings with ATCO Electric's representatives. After participating in these steps, the members of the TZLG expressed concern that the consultation undertaken by ATCO Electric was inadequate and did not address their concerns.

67. The TZLG also questioned the accuracy of ATCO Electric's consultation records. David Yaremicio identified that the record of a consultation between his father and ATCO Electric's landman is inaccurate and also noted that his records show a meeting occurring that is absent from ATCO Electric's records. In addition, despite Mr. Yaremicio raising concerns about unauthorized access twice, the TZLG submitted that there is no evidence to suggest that ATCO Electric did anything to address this concern.³⁷

6.3 Commission findings

68. In Decision 2011-436, the Commission commented that effective public consultation achieves three purposes: (i) it allows parties to understand the nature of a proposed project; (ii) it allows the applicant and the intervener to identify areas of concern; and (iii) it provides a reasonable opportunity for the parties to engage in meaningful dialogue and discussion with the goal of eliminating or mitigating to an acceptable degree the affected parties' concerns about the project.³⁸

69. The Commission finds that ATCO Electric's participant involvement program meets the requirements of Rule 007. The Commission recognizes that some interveners expressed dissatisfaction with the participant involvement program. Nevertheless, the Commission considers that ATCO Electric's participant involvement program provided parties with sufficient information to understand the nature of the project and identify areas of concern, and a reasonable opportunity to engage in dialogue with the goal of eliminating or minimizing those concerns.

70. The Commission finds that ATCO Electric's request to adjourn the proceeding to allow it more time to consult with parties is strong evidence of ATCO Electric's attempts to inform stakeholders and resolve their concerns. ATCO Electric's subsequent amendments and the

³⁵ Exhibit 24102-X0205, Final Argument of ATCO Electric Ltd, PDF page 22.

³⁶ Transcript, Volume 2, page 308, lines 8 to 17.

³⁷ Exhibit 24102-X0204, PDF page 44, paragraphs 137 and 138.

³⁸ Decision 2011-436: AltaLink Management Ltd. and EPCOR Distribution & Transmission Inc. – Heartland Transmission Project, Proceeding 457, Application 1606609, November 1, 2011, page 57, paragraph 283.

withdrawal of objections by the Braes and Claysmore REAs is further evidence of a responsive participant involvement program.

71. While the Commission accepts that the program met Rule 007 requirements and that parties ultimately received the necessary information, it considers that if ATCO Electric provided some information earlier, some interveners' concerns may have been resolved. In addition, the Commission emphasizes that maintaining a positive relationship with stakeholders is crucial to being able to work together in the future and it is clear that ATCO Electric needs to make efforts to repair some relationships as it seems that several interveners no longer trust ATCO Electric. Both of the issues are discussed later in this decision, but the Commission expects that ATCO Electric will endeavour to make improvements to future participant involvement programs based on these findings.

7 Landowner impacts

7.1 Health and the effects of electromagnetic fields

7.1.1 Views of the TWP510 - ZL65 Land Owner's Group

72. Members of the TZLG expressed concerns regarding the health impacts of exposure to electromagnetic fields (EMF) associated with the project. The TZLG retained Dr. Paul Héroux, a professor of Toxicology and Health Effects of Electromagnetism at McGill University, Faculty of Medicine, as an expert witness. Dr. Héroux commented that the EMF exposure associated with transmission lines is not natural and disagreed with ATCO Electric's statement that the magnetic field of transmission lines has the same effect as daily exposure of EMF from household appliances.³⁹ Dr. Héroux stated that the potential for increased EMF levels as a result of the project has not been accurately accounted for or modelled.⁴⁰

7.1.2 Views of ATCO Electric

73. ATCO Electric stated that information regarding EMF and health impacts has been provided in the application and subsequent ATCO Electric filings and that EMF materials were also made available at the open houses. ATCO Electric stated that it distributed information that was intended to explain the nature of EMF associated with transmission lines, and how collectively, they are not viewed as a health concern by independent experts in the field.

74. In response to information requests, ATCO Electric calculated peak electric and magnetic field levels in and up to 100 metres from the right-of-way. ATCO Electric indicated that the levels decreased rapidly with distance and that the calculated levels are well below the exposure limits recommended by the International Commission on Non-Ionizing Radiation Protection (ICNIRP) and the International Committee on Electromagnetic Safety (ICES).

75. ATCO Electric retained Dr. William Bailey, the principal scientist in the Centre of Occupational & Environmental Health Risk at Exponent Inc. as an expert witness. Dr. Bailey commented:

The existing body of scientific literature on EMF and human health is therefore quite large and has been thoroughly evaluated by numerous international health, scientific, and

³⁹ Exhibit 24102-X0156, Supplemental Submissions of TZLG, PDF page 4.

⁴⁰ Exhibit 24102-X0204, Post-hearing arguments, PDF page 46.

governmental agencies. On its website, the WHO [World Health Organization] acknowledges that the body of scientific research on electromagnetic fields is quite comprehensive, stating that "[d]espite the feeling of some people that more research needs to be done, scientific knowledge in this area is now more extensive than for most chemicals." To date, none of the reviewing agencies have concluded that EMF from transmission lines or other EMF sources is a cause of any adverse effects on the health of humans or animals.⁴¹

76. ATCO Electric argued that Dr. Héroux had filed limited evidence, which was not substantiated by credible research or accepted guidelines regarding EMF exposure and submitted that his evidence should be given little weight.

77. ATCO Electric submitted that the Commission has ruled on the issue of EMFs on numerous occasions and in Decision 2011-436,⁴² the Commission recognized that numerous international research bodies have not found any causal relationship between EMF and certain suggested health effects, and that any evidence supporting such a conclusion is weak.⁴³

7.1.3 Commission findings

78. The Commission agrees with ATCO Electric that Dr. Héroux filed limited evidence in this proceeding and that this evidence was not substantiated. The Commission finds the evidence of Dr. Bailey to be more robust and notes that his evidence aligns with the conclusions of the World Health Organization and Health Canada, upon which the Commission has consistently placed significant weight. The Commission finds that the evidence before it does not support a conclusion that the EMF from the transmission line will result in adverse health effects.

7.2 Property value, visual, noise and other impacts

7.2.1 Views of the interveners

79. Intervening landowners expressed their concerns about noise, visual impacts and impacts to their lifestyle, as well as impacts to land use, development impacts and property value.

80. James McLaughlin indicated that ATCO Electric's original preferred route, now an alternate route segment, would require the removal of a large percentage of the shelterbelt trees planted over 50 years ago on his property, and stated his preference for the amended preferred route. He provided an estimate of \$3,000 to \$3,500 per tree for moving 39 of the Colorado blue spruce trees in his shelterbelt, but noted that the mature trees may not survive such a move. He also provided a cost estimate of \$2,000 per tree for replacing the Colorado blue spruce trees. Mr. J. McLaughlin stated that the removal of these trees would result in the devaluation of his property as well as a reduction to his quality of life due to the increased noise and dust.⁴⁴

81. Cathi and Jerry Hayduk stated that they subdivided their home quarter so that their son could build a home on the property. They submitted that only certain areas of the subdivision are suitable for locating a residence due to risk of flooding and that the alternate route segment would eliminate the possibility of building a house in the subdivision in those remaining areas.

⁴¹ Exhibit 24102-X0176, ATCO Electric Reply Evidence - Final, PDF page 79 and 80.

⁴² Decision 2011-436, AltaLink Management Ltd. and EPCOR Distribution & Transmission Inc. – Heartland Transmission Project, Application No. 1606609, Proceeding ID No. 457, November 1, 2011.

⁴³ Exhibit 24102-X0205, Final Arguments of ATCO Electric Ltd., PDF page 48.

⁴⁴ Exhibit 24102-X0115, B – Landowner Submissions, PDF page 11.

82. Mrs. Hayduk indicated that they also have a culvert maintenance easement agreement with County of Minburn for a culvert that would be directly below the transmission line should the alternate route be approved. Mrs. Hayduk stated that the agreement requires that she and her husband receive written consent from the County before allowing any work within the right-of-way. Mrs. Hayduk testified that the County does not want the culvert area disturbed and would not want power lines overhead which may restrict the access of their equipment.⁴⁵ Mrs. Hayduk testified that the agreement states:

“The grantor” -- that's my husband and I -- “will not, without the prior written consent of the grantee” -- that's the county -- “excavate, drill, install, erect over, under, or through the said right-of-way. The grantor will not grant any person, firm, or corporation, other than the grantee, any right of entry to or affecting the right-of-way of -- or works without the consent of the grantee firsthand and obtained in writing.”⁴⁶

7.2.2 Views of ATCO Electric

83. ATCO Electric submitted that because the project involves rebuilding the existing transmission line, visual impacts are not a new impact and are in most cases only incrementally additive over the existing presence of the transmission line. ATCO Electric noted that the replacement transmission line structures will primarily be comprised of wishbone structures, which have a smaller footprint than the existing H-frame structures.

84. ATCO Electric stated that while vegetation may be removed in order to meet regulatory clearance requirements, the routing along existing road alignments as proposed by the preferred route will minimize the amount of vegetation to be removed.⁴⁷

85. ATCO Electric argued that the construction of the project in the road allowance adjacent to the Hayduks' property will not affect the use of the lands on the affected parcels for their current zoning approval and does not anticipate the project will create any additional restrictions from further subdividing their lands.⁴⁸

7.2.3 Commission findings

86. The Commission recognizes that many interveners raised general concerns about a variety of potential impacts that they believe the project would cause, including property devaluation, visual impacts, noise, and induced shocks. The interveners did not provide specific evidence about these impacts and the Commission notes that these types of concerns are typical for stakeholders near proposed transmission lines. The Commission finds that ATCO Electric has a long history of designing, constructing and operating transmission lines and that its application contains a significant number of mitigations to reduce or eliminate these types of impacts to the extent practical. For example, the Commission finds that siting the transmission line within the road allowance and parallel to existing linear developments will generally reduce visual impacts. In addition, ATCO Electric stated that it will ground fences and other structures to minimize induced voltages and nuisance shocks where necessary.

⁴⁵ Transcript, Volume 3, page 126, line 12 to page 127, line 1.

⁴⁶ Transcript, Volume 3, page 125, line 24 to page 125, line 11.

⁴⁷ Exhibit 24102-X0205, Final argument of ATCO Electric Ltd., PDF page 55.

⁴⁸ Exhibit 24102-X0176, ATCO Electric Reply Evidence, PDF page 41.

87. The Commission finds that these general impacts are not significant and further that if they do occur, they are likely to occur on both the preferred and alternate routes and so do not provide rationale for selecting one over the other.

88. The Commission finds that the removal of Mr. J. McLaughlin's trees is a distinct impact and will consider it when assessing which route, if any, is in the public interest.

8 Agriculture impacts

8.1 Clearances

8.1.1 Views of the TWP510 - ZL65 Land Owner's Group

89. Members of the TZLG expressed concern that the proposed clearance height of both the distribution and transmission conductors was not high enough to accommodate the height of some of their farm equipment, which they indicated is as tall as 6.1 metres.⁴⁹ They stated that accidental contact with the lines could result in injury or death, damage to their equipment, or in power outages or surges, which would have negative impacts on their businesses.

90. Mr. Yaremccio stated that the agricultural industry does not build farm equipment for Alberta or Canada, and that farmers are not able to specify how tall they would like their equipment to be in order to satisfy the height restrictions imposed on them by the minimum clearance of transmission conductors to ground. He submitted that ATCO Electric should give consideration to safety and that adequate clearance should not be sacrificed due to monetary reasons.

91. Several members indicated that a cost increase of \$500 per structure to increase the height of the structures to accommodate an eight-metre clearance is a reasonable expenditure to increase the safety of all activities in the vicinity of the proposed line.

92. The TZLG requested that the Commission place the following as a condition on the project, if approved.

- (i) ATCO must maintain sufficient ground to wire clearance (including underslung distribution wires) mid span levels to permit underneath crossing of the wires by farm equipment. ATCO should work with the LakeLand REA, Braes REA, and any other REAs affected by the project in setting adequate clearance levels (mid span) for farm equipment.⁵⁰

93. The TZLG stated that the current *Alberta Electrical Utility Code* clearance requirements are based on an assumed 5.3-metre vehicle height while in reality, their equipment is taller than 5.3 metres. Members of the group submitted that they regularly move their equipment on county roads and the proposed clearances would be a safety hazard when entering their farms. The TZLG is of the position that building the transmission line with an understrung distribution line clearance of eight metres would overcome safety issues and the cost associated with a height increase from six metres does not outweigh the public benefit.⁵¹

⁴⁹ Exhibit 24102-X0204, TZLG & LREA Final Argument - 2020 02 20, PDF page 56.

⁵⁰ Exhibit 24102-X0204, TZLG & LREA Final Argument - 2020 02 20, PDF page 8.

⁵¹ Exhibit 24102-X0218, Reply Argument of TZLG and LREA, PDF pages 8 and 9.

8.1.2 Views of Lakeland REA

94. Lakeland REA requested the Commission include the following conditions if the project is approved.⁵²

- ATCO Electric maintains a minimum above-ground and midspan conductor clearance of eight metres on both the transmission line and distribution lines.
- ATCO Electric constructs the project with appropriate clearance between its transmission lines and Lakeland REA's distribution lines, and all through the project's life maintain such clearance levels or any other clearance level required to comply with applicable electric codes.

95. Lakeland REA stated that farm equipment is getting taller and increasing the distribution line height will reduce the risk of farm equipment contacting overhead lines. Lakeland REA submitted that its midspan distribution line ground clearance is higher than six metres and that ATCO Electric should maintain Lakeland REA's existing midspan ground clearance levels when transferring its electric facilities to the new structures.

96. Lakeland REA stated that although it acknowledges the minimum standard of six metres as described in Canadian Standards Association (CSA) standard C22.3, it believes this standard is not adequate for road crossings or field access points based on the height of current farm machinery. It submitted that if the proposed project is built to this minimum standard, there may be additional costs for future construction to accommodate new standards.

97. Mr. Werstiuk stated that Lakeland REA's main concern with six-metre clearance height is the safety of REA members, farmers and the general public. In addition, that Lakeland REA would be forced to take ownership of a distribution line that would be designed by ATCO Electric. Lakeland REA stated that it provided ATCO Electric with design input so that there is reduced liability and a potential to reduce costs for Lakeland REA in the future.

8.1.3 Views of ATCO Electric

98. ATCO Electric stated that no conditions are required to address safety and clearance. ATCO Electric submitted that it designs its overhead lines to Alberta Electric System Operator standards, CSA standard C22.3 and the *Alberta Electrical Utility Code*, and the project will be constructed to ensure adequate clearance under the conductors for standard farm equipment and vehicles travelling on roadways.⁵³

99. ATCO Electric stated that design requirements of the *Alberta Electrical Utility Code* were 6.0 metres and 6.7 metres for distribution and transmission, respectively. ATCO Electric argued that the 6.7-metre ground clearance of the proposed transmission line would be an improvement to the 5.7-metre ground clearance of the existing 7L65 transmission line which was designed to meet previous electrical codes. Further, it stated that the minimum transmission line to ground clearance in the design of the project is currently 7.3 metres where no understringing is proposed and 9.5 metres where a distribution line is proposed to be understrung.⁵⁴

⁵² Exhibit 24102-X0204, TZLG & LREA Final Argument - 2020 02 20, PDF pages 48 and 49.

⁵³ Exhibit 24102-X0205, Final Argument of ATCO Electric Ltd, PDF page 26, paragraphs 70 and 71.

⁵⁴ Exhibit 24102-X0205, Final Argument of ATCO Electric Ltd, PDF page 66, paragraphs 195 and 196.

100. ATCO Electric stated that its evidence shows that the clearance requirements will not create any greater restrictions on adjacent landowners than those that are already present due to the existing distribution lines. ATCO Electric analyzed the ground clearance of the distribution line at agricultural access points along the preferred route of Township Road 510 for Lakeland REA customers using LiDAR⁵⁵ and information obtained from Lakeland REA. ATCO Electric submitted that designed clearance for the project would result in general improvements to the existing clearances.⁵⁶

101. ATCO Electric submitted that minimum code clearance is based on maximum operating temperature sag or under an ice and wind loading condition and that on an average day, measured sag of the conductor would provide more clearance. Further, ATCO Electric identified that minimum clearance occurs at midspan, with clearance to ground increasing nearer to the structures.

102. Finally, ATCO Electric stated that “if prior to construction a landowner specifically seeks additional clearance above their access points, ATCO will work with the landowner and discuss reasonable options with them, including adjusting their point of access, small adjustments to structure locations, and increasing design clearance prior to construction.”⁵⁷

8.2 Compaction and rutting

8.2.1 Views of the TWP510 - ZL65 Land Owner’s Group

103. The TZLG expressed concerns regarding ATCO Electric performing construction activities during wet or thawed ground conditions. The TZLG requested that if the Commission were to approve the project, that it impose the following condition:

- (g) ATCO must limit its construction and reclamation activities to wintertime and in frozen ground conditions. Where weather changes result in thaw or wet conditions, ATCO shut down its operation or postpone work until conditions are dry or refreeze. ATCO must follow the [Government of Alberta] Voluntary Shutdown Criteria in determining when it must shut down its operation.⁵⁸

104. Mr. Yaremicio stated that in the fall of 2015, ATCO Electric said it would be doing maintenance on the existing transmission line during the upcoming winter months. He stated that March of 2016 was unseasonably warm, which resulted in the large snow pack melting and an abundance of runoff water on his land. He submitted that ATCO Electric had dispersed rig mats on his land during this time period in multiple locations along the existing line and left ruts in the field which he had to repair himself and he was not compensated for the loss of crop production arising from the damages.⁵⁹

105. Chad Bown stated that he was concerned with ATCO Electric’s voluntary stop-work procedures for when it may be too warm to continue work and that he witnessed the incident that Mr. Yaremicio described.

⁵⁵ LiDAR refers to Light Detection and Ranging.

⁵⁶ Exhibit 24102-X0176, ATCO Electric Reply Evidence – Final, PDF page 15.

⁵⁷ Exhibit 24102-X0205, Final Argument of ATCO Electric Ltd, PDF page 28, paragraph 75.

⁵⁸ Exhibit 24102-X0204, TZLG & LREA Final Argument - 2020 02 20, PDF page 7.

⁵⁹ Transcript, Volume 3, page 451, line 22 to page 453, line 13.

106. In its reply argument, the TZLG stated that ATCO Electric's environmental protection plan (EPP) clearly outlines what procedures it must follow under excessively wet or thawed conditions:

Postpone work on excessively wet or thawed soils until conditions are dry or refreeze. Refer to the AEP C&R IL98/4-Voluntary Shutdown Criteria, 1998, for more information on when to cease operations due to weather conditions.⁶⁰

107. Further, the TZLG argued that ATCO Electric should face enforcement action under the *Environmental Protection and Enhancement Act* if it did not comply with the voluntary shut down in its EPP.

8.2.2 Views of ATCO Electric

108. ATCO Electric stated that its EPP requires it to refer to the voluntary shutdown criteria or look at options when excessively wet conditions or thawed soils occur, which includes the possibility of using access matting.⁶¹ Further, ATCO Electric stated that it may postpone work until conditions are dry or the soil refreezes depending on the current phase of construction.

109. ATCO Electric submitted that the concerns of the TZLG are addressed in ATCO Electric's policies and procedures. It stated that it intends to construct the majority of the line during frozen conditions and should construction activities occur during non-frozen conditions, it will employ mitigation measures to minimize construction impacts.

110. ATCO Electric argued that the condition requested by the TZLG is not appropriate and that the shut down and cessation of work during excessively wet conditions is not mandatory. However, ATCO Electric stated that activities in these circumstances must adopt appropriate mitigation measures, which may include voluntary shut down or the installation of rig mats to protect soils from rutting or compaction.⁶²

111. ATCO Electric stated that "where construction is at a critical point and it would not be able to shutdown in excessively wet conditions, it will contact Alberta Environment and Parks (AEP) to discuss matters including options, expectations and contingency plans, in accordance with the Voluntary Shut Down Criteria."⁶³

112. ATCO Electric argued that it "does not agree that it must limit its construction and reclamation activities to wintertime and in frozen ground conditions. Such a condition could result in unreasonable delays and will prohibit certain operations from taking place. Further, ATCO has already addressed adherence to the Voluntary Shutdown Criteria in its EPP. ATCO submits that no further conditions are required in these areas."⁶⁴

⁶⁰ Exhibit 24102-X0022, Atch 8_7L65 Line Rebuild_EPP, PDF page 15.

⁶¹ Transcript, Volume 1, page 35, line 22 to page 36, line 1.

⁶² Exhibit 24102-X0205, Final Argument of ATCO Electric Ltd, PDF page 43, paragraph 121.

⁶³ Exhibit 24102-X0219, ATCO Reply Argument, PDF page 31, paragraph 87.

⁶⁴ Exhibit 24102-X0219, ATCO Reply Argument, PDF page 32, paragraph 89.

8.3 Structures and guy wires

8.3.1 Views of the TWP510 - ZL65 Land Owner's Group

113. Members of the TZLG expressed concerns about conducting agricultural activities around the proposed structures as well as the potential damages to their farm equipment inadvertently making contact with poles or their guy wires. Should the Commission approve the project, the TZLG requested the Commission impose the following conditions:

- (e) ATCO must consult with and work with TZLG members regarding the placement of the transmission poles. ATCO shall ensure that pole placement does not interfere with aerial spraying of TZLG's members' lands, and where there is interference, to discuss consequences with the TZLG member.
- (f) ATCO must not place anchor wires on any of TZLG's members' lands. ATCO should explore alternative pole structures that will ensure avoidance of anchor wires on TZLG's members' lands. Where the use of anchor wires is unavoidable, ATCO must work with the affected TZLG member regarding placement of the anchor wire.⁶⁵

114. Members of the TZLG stated that poles at or near the edge of a field introduce additional obstacles during farming operations and that this results in a loss of available farmland.

115. Mr. Yaremcio stated that despite ATCO Electric's position otherwise, it is not safe to farm right up to the transmission structures. He stated that he is seeking confirmation from ATCO Electric that "landowners are completely indemnified from any and all liabilities should an accident occur in the future."⁶⁶ He also expressed a concern that if the poles are placed in the bottom of the ditch, they would compound an existing water drainage issue, potentially resulting in 30 acres of his farmland being flooded.

116. The TZLG stated that its members should not be exposed to greater financial liability due to the project and submitted that the Commission should mandate that ATCO Electric cover the costs of any damages resulting from a TZLG member hitting a transmission structure.

8.3.2 Views of ATCO Electric

117. ATCO Electric committed to consulting with landowners and taking into consideration their input on the placement of poles and guy wires and argued that additional conditions are unnecessary as it believes its mitigation measures are sufficient. It stated that issues regarding compensation related to facility equipment placement and aerial spraying would be properly addressed by the Surface Rights Board process should landowners continue to allege an adverse impact.

118. ATCO Electric stated that there are many instances of transmission structures located midfield on TZLG members' lands and that by rebuilding those structures in the road allowance, the impacts from farming around poles and guy wires would be either the same or less than what currently exists.

119. ATCO Electric stated that guyed structures are part of the proposed project and common at corner and deflection structures. Avoiding guy wires would require self-supporting structures

⁶⁵ Exhibit 24102-X0204, TZLG & LREA Final Argument - 2020 02 20, paragraph 11.

⁶⁶ Transcript, Volume 3, page 450, line 22 to page 451, line 1.

which it estimated would cost at least twice as much as guyed structures.⁶⁷ Further, ATCO Electric noted that landowners may already have guy wires on their lands due to distribution facilities.

120. ATCO Electric submitted that its practice is to mark guy wires with high-visibility guards to reduce the potential of contact and that it compensates landowners for the footprint of the guy wires. ATCO Electric stated that provided landowners understand the limitation of their farming equipment and are able to operate it in a safe manner, it has no concerns with farming activities taking place up to the pole structures and within the right-of-way.⁶⁸

121. In response to Mr. Yaremicio's concern of water drainage issues related to the pole placement near his lands, ATCO Electric argued that it should not be held responsible for existing drainage issues but reiterated that it would consult with landowners and take into consideration their input on pole placement.

122. ATCO Electric stated that it has policies and procedures in place to account for compensation due to inadvertent damage. ATCO Electric submitted, "that assignment of any liability for such instances are better left to be determined at the time of any such occurrence, in light of all the relevant facts and in accordance with any relevant right-of-way agreement provisions and applicable legislation."⁶⁹

8.4 Soil-borne diseases and noxious weeds

8.4.1 Views of the TWP510 - ZL65 Land Owner's Group

123. Members of the TZLG expressed concern regarding the potential spread of noxious and invasive weeds and soil-borne diseases such as clubroot on their lands during construction, and maintenance of the transmission line and reclamation of the existing 7L65 transmission line. Should the Commission approve the project, the TZLG requested the Commission impose the following conditions.

- (a) ATCO should comply with its Environmental Protection Plan ("EPP") as updated from time to time and the TZLG's Biosecurity Protocol Notice and the TZLG's Wetland Disturbance and Right of Way Protocol during the construction, operation and reclamation phases of the Project.
- (c) ATCO should work with the TZLG landowners to engage a construction monitor to monitor construction and reclamation activities on behalf of the landowners. The construction monitor should be selected by the TZLG landowners. The costs of the construction monitor should be borne by ATCO.
- (d) A level 3 cleaning for vehicles, equipment, and workers' boots used during construction and reclamation of the existing line should be undertaken when entering any of TZLG's lands to prevent the spread of noxious weeds and other soil borne diseases.⁷⁰

⁶⁷ Exhibit 24102-X0219, ATCO Reply Argument, PDF page 29, paragraph 80.

⁶⁸ Exhibit 24102-X0205, Final Argument of ATCO Electric Ltd, PDF page 25.

⁶⁹ Exhibit 24102-X0219, ATCO Reply Argument, PDF page 28, paragraph 77.

⁷⁰ Exhibit 24102-X0204, TZLG & LREA Final Argument - 2020 02 20, paragraph 11.

124. Members of the TZLG adopted a biosecurity protocol⁷¹ that they submitted ATCO Electric should follow throughout the project life cycle. The TZLG put forth Jim Ness as an independent witness at the hearing, to discuss the biosecurity protocol. Mr. Ness stated that the protocol's purpose is to control access on endangered lands and ensure that those who wish to access these lands abide by certain standards to prevent the spread of disease. He submitted that "there is lots of clubroot in this county"⁷² and steps should be taken to control its spread, including the appointment of an independent construction monitor to ensure the interests of the landowners are protected.

125. In its argument, the TZLG reiterated Mr. Ness' statement that testing for soil-borne diseases at the field access points closest to where ATCO Electric would be working is a good practice. The TZLG argued that the practices are further outlined in the Clubroot of Crucifers Surveying Protocol to Detect Presence or Absence⁷³ and ATCO Electric's proposal to rely on landowners' confirmation of the presence or absence of clubroot in their lands is insufficient as landowners may not be forthright. The TZLG stated that sampling for clubroot is a valid way to identify clubroot presence in a field and is superior to relying on landowners disclosing information.

126. The TZLG argued that while ATCO Electric has its own policies and procedures, when construction activities are performed by contractors and subcontractors, TZLG members believe the policies and procedures may not be followed or that workers could become complacent. To resolve this concern, the TZLG submitted that a construction monitor is necessary to observe and monitor work being conducted on or surrounding their land to ensure all equipment is adequately cleaned. TZLG members argued that they cannot, nor should they, be responsible for observing and monitoring what work is being done on or surrounding their property.

127. The TZLG submitted that with the increased risk of clubroot in the county, it is necessary to test for clubroot. Further, a condition that requires ATCO Electric to hire an independent construction monitor as chosen by the TZLG is necessary. The TZLG submitted that both it and ATCO Electric could decide the scope of work of the monitor in order to address the concerns of the TZLG.

8.4.2 Views of ATCO Electric

128. ATCO Electric stated that the testimony of Mr. Ness, and the biosecurity protocol that he authored, should be given little weight as he does not hold a relevant professional designation. ATCO Electric further submitted that the biosecurity protocol should not be a condition of the project since ATCO Electric's own policies and procedures are superior.

129. ATCO Electric stated that it is aware of the potential serious impact that can occur to agricultural operations as a result of the spread of noxious weeds and soil-borne diseases such as clubroot, and recognizes the paramount importance for it "to strictly adhere to a well-developed plan to avoid the spread of weeds or crop diseases."⁷⁴ ATCO Electric submitted that it has successfully dealt with this issue on previous projects and that its EPP contains effective

⁷¹ Exhibit 24102-X0119, F - TZLG BioSecurity Protocol, June 13, 2019.

⁷² Transcript, Volume 2, page 358, line 1.

⁷³ Exhibit 24102-X0192, Clubroot of Crucifers Survey and Protocol -Ex. 192, February 4, 2020.

⁷⁴ Exhibit 24102-X0205, Final Argument of ATCO Electric Ltd, PDF page 32, paragraph 87.

measures and practices identified under the Government of Alberta's Alberta Clubroot Management Plan to reduce the risk of the introduction or spread of such diseases or weeds.

130. ATCO Electric described the cleaning procedures outlined in its environmental management system:

- (a) Level 1: Mechanical Cleaning. Remove mud, rocks, dust & soil clumps. Level 1 cleaning is required prior to leaving all land, regardless of the risk of soil borne diseases.
- (b) Level 2: Washing. Use pressure washer or equivalent to remove all soil and material. Minimum level required before initial site entry on all land.
- (c) Level 3: Disinfecting. Wash the vehicle as per level 2 and then bleach with a 2% solution and let bleach sit for 20 minutes. A modified level 3, which is the application of bleach following a level 1 cleaning (mechanical removal, not washing) that has sufficiently removed the dust and debris, may be acceptable.⁷⁵

131. ATCO Electric stated that the minimum cleaning standard would be Level 2 in the County of Minburn, where the majority of the project is located, and Level 1 in the County of Vermilion River. ATCO Electric explained that it reviews the need for additional cleaning requirements as part of its construction EPP and submitted that this review considers a number of factors, including:

- (a) Whether there is a confirmed presence of crop disease in the field;
- (b) The requirements of the local district Agricultural Fieldmen; and
- (c) The landowner's current crop land situation and overall nature of the crop protection request.⁷⁶

132. ATCO Electric also stated that the majority of project construction is anticipated to take place during frozen conditions and that this should mitigate against the spread of clubroot.⁷⁷

133. ATCO Electric argued that sampling for clubroot should not be a condition of the project. It submitted that sampling can only identify the presence or absence of clubroot at the exact spot that was sampled. It noted that Mr. Ness conceded that it's possible for clubroot to affect one area of a parcel but not another and that clubroot infestation could be localized within a parcel.⁷⁸

134. ATCO Electric stated that while it had used construction monitors in the past, such as for the Eastern Alberta Transmission Line and the Hanna Region Transmission Development projects, those projects were vastly different in scope. ATCO Electric stated that this project has much more limited potential for land and environmental impacts and that because it will have a project-specific EPP, ATCO Electric's environmental management system, a land agent and an environmental advisor in place, an independent construction monitor is not reasonably required.

⁷⁵ Exhibit 24102-X0176, ATCO Electric Reply Evidence – Final, PDF page 22.

⁷⁶ Exhibit 24102-X0176, ATCO Electric Reply Evidence – Final, PDF pages 22 and 23.

⁷⁷ Exhibit 24102-X0205, Final Argument of ATCO Electric Ltd, PDF page 34, paragraph 92.

⁷⁸ Exhibit 24102-X0205, Final Argument of ATCO Electric Ltd, PDF page 35, paragraphs 95 and 96.

135. Lastly, ATCO Electric stated that should the Commission determine that a construction monitor is warranted, ATCO Electric should be responsible for selecting the independent monitor but that it would solicit recommendations from the TZLG landowners for consideration.

8.5 Commission findings

136. The Commission recognizes that the project has the potential for agricultural impacts in a number of different ways.

137. The Commission understands the concerns of farmers about coming into contact with structures, guy wires or conductors and that additional care in operating around these facilities is clearly required. Further, the facilities themselves result in a loss of available farmland. The proposed transmission line will therefore cause agricultural impacts. However, it is not the Commission's role to approve only those projects that result in zero impacts. Instead, the Commission is tasked with ensuring that approval of the project is in the public interest; this necessarily requires the Commission to select a route that minimizes or mitigates a project's impacts to an acceptable degree.

138. The Commission notes that many landowners in this area already experience agricultural impacts from the existing transmission line. Rebuilding Transmission Line 7L65 will generally result in increased clearances and reduced land usage as a result of a move from H-frame structures to monopole structures and from a largely midfield location to one more consistently within road allowances. The Commission finds that these factors all result in a net reduction of agricultural impacts.

139. The Commission recognizes that the transmission line will comply with the *Alberta Electrical Utility Code*, that clearances will be generally increased from that of the existing transmission line and distribution lines, and that ATCO Electric has committed to consulting with stakeholders about the height of conductors and location of structures. The Commission is satisfied that the design of the project and mitigations proposed sufficiently address the issue of clearances.

140. The Commission finds that ATCO Electric's practices and procedures to reduce the spread of soil-borne diseases and noxious weeds are reasonable. The Commission notes that ATCO Electric has incorporated best management practices identified under the Government of Alberta's Alberta Clubroot Management Plan and accepts ATCO Electric's statement that it has successfully dealt with this issue in the past. ATCO Electric's statement that it recognizes the "paramount importance" of this issue is significant to the Commission, as is the fact that ATCO Electric will consider landowner input when assessing when to incorporate additional cleaning requirements. The Commission does not consider it necessary to impose that ATCO Electric conduct clubroot sampling.

141. The Commission has considered the policies, practices and procedures of ATCO Electric adopted to mitigate agricultural impacts and finds that they are reasonable and that there is no need to impose the conditions proposed by the TZLG related to agricultural impacts. It appears to the Commission that, in most cases, it is not that the members of the TZLG believe ATCO Electric's policies, practices and procedures are insufficient but instead that ATCO Electric or its contractors or subcontractors will not adhere to them. This may be based on past experiences where members did not feel that ATCO Electric fulfilled previous commitments.

142. A clear example of this is Mr. Yaremcio's description of events in March 2015, where rig mats showed up without notice under the existing Transmission Line 7L65, in thawed conditions, using areas for which ATCO Electric did not have a right-of-way and where it did not appear to Mr. Yaremcio that any equipment had been washed. He explained that his family had to repair the damages themselves, and that they were not compensated for the damages or the loss of crop production arising from the damages, nor did they receive the compensation agreed upon for collecting the rig mats and stockpiling the access mats for ATCO Electric's contractors to pick up after the work was stopped.⁷⁹ It is not the role of the Commission to rule on this incident in this decision, nor does it have all the facts to do so, but it wishes to emphasize the importance of a facility owner maintaining a trusting and positive relationship with stakeholders upon whose land its facilities are located.

143. The Commission expects that ATCO Electric will comply with the practices and procedures within its EPP. Further, the Commission expects that ATCO Electric will ensure that its employees, contractors and subcontractors conduct themselves in a manner which contributes toward a positive and trusting relationship with stakeholders. The Commission also expects that ATCO Electric will provide landowners with contact information for an employee that is responsible for complying with its EPP and that can respond to landowners in a timely manner if an issue arises.

144. The Commission expects that if issues regarding agricultural impacts arise ATCO Electric will work diligently with landowners to resolve them. However, if landowners feel that ATCO Electric has not adhered to its EPP, they can raise the issue with the Commission or the Surface Rights Board.

9 Impacts to rural electrification associations

9.1 Views of Lakeland REA

145. Lakeland REA stated it will be directly and adversely affected by the project, which will have significant impacts on its distribution system and will interfere with its ability to provide undisturbed electrical power to its members. It requested that the Commission deny the project in accordance with Section 17(1) of the *Alberta Utilities Commission Act*. Alternatively, Lakeland REA requested that the Commission include the conditions listed below.

- (a) ATCO shall be responsible for all future safety and Electric Code required changes for the combined transmission and distribution facilities.
- (b) ATCO shall ensure that Lakeland REA is provided with access to the transmission lines and structures at all times and shall ensure that the access is maintained even in circumstances of change of ownership of the transmission lines and structures.
- (c) ATCO shall use reasonable efforts to mitigate the risk associated with the placement of Lakeland REA distribution lines on the existing 7L65 transmission line during realignment, including ensuring that power outages during such transfer are minimal in duration, and that ATCO will be solely responsible for any issues, costs and liabilities that may arise out of this temporary placement.
- (d) ATCO maintains a minimum above ground and midspan conductor clearance of eight metres on both the transmission line and distribution lines.

⁷⁹ Transcript, Volume 3, page 451, line 22 to page 453, line 13.

- (e) ATCO constructs the project with appropriate clearance between its transmission lines and Lakeland REA's distribution lines, and all through the project's life maintain such clearance levels or any other clearance level required to comply with applicable electric codes.
- (f) ATCO designs and constructs the transmission lines in such a manner that provides options for Lakeland REA to upgrade its distribution facilities or to provide additional services through its distribution facilities at normal costs. Lakeland REA expects that such construction will ensure that Lakeland REA does not incur more costs than necessary to upgrade their facilities or to provide additional services through their facilities.
- (g) ATCO shall mitigate and reduce where possible, infringement onto the Lakeland REA owner-members lands, including utilizing underground wire options on affected members' land where possible;
- (h) Assuming that the Commission finds that a connection order is warranted in this proceeding, the Commission should include this as a condition of approval: prior to commencing construction, ATCO shall work with Lakeland REA to develop an operation and maintenance agreement to guide the operations and maintenance of the transmission structures with Lakeland REA's distribution under build.⁸⁰

146. Lakeland REA stated that in a previous incident, ATCO Electric had provided it with a study which reported over 200 clearance violations on a distribution line understrung on ATCO Electric's Transmission Line 7L77. ATCO Electric informed Lakeland REA that it was responsible for correcting the violations at Lakeland REA's expense. Lakeland REA stated that when it obtained the rights to utilize the distribution lines from ATCO Electric in 2003, it received no indications from ATCO Electric of any clearance violations which would require financial input from Lakeland REA. Lakeland REA subsequently requested a backup of the study and conducted its own investigation of the clearance violations, which found clearances that did not match those documented in ATCO Electric's study. Lakeland REA noted ground clearances is one of the issues identified by ATCO Electric as a reason for why the project is required and stated that ATCO Electric's application to understring Lakeland REA's distribution lines underneath ATCO Electric's proposed transmission lines exposes Lakeland REA to potential liability and costs for any future ground clearance issues.⁸¹

147. Lakeland REA expressed concerns about how future costs resulting from changes to the electric code would be apportioned and that there may be additional costs to future upgrades because ATCO Electric's proposed six-metre ground clearance would not be able to accommodate another distribution circuit. Lakeland REA stated that the Transmission Line 7L77 incident has heightened its concerns and that its *2003 Wire Owners Agreement* with ATCO Electric does not provide a guideline for situations where Lakeland REA's distribution facilities are understrung on ATCO Electric's transmission facilities.⁸²

148. Lakeland REA also raised concerns about maintaining the reliability of its system during project construction. ATCO Electric proposed to temporarily relocate Lakeland REA distribution lines in the project area onto ATCO Electric's current transmission line structures. Lakeland REA

⁸⁰ Exhibit 24102-X0204, TZLG & LREA Final Argument - 2020 02 20, PDF pages 48 and 49.

⁸¹ Exhibit 24102-X0123, Lakeland REA submissions, PDF page 8.

⁸² Exhibit 24102-X0204, Argument of the TZLG and LREA, PDF page 50.

noted that ATCO Electric has stated the existing transmission line is at the end of its operating life and has restricted operating capacity.

9.2 Views of ATCO Electric

149. ATCO Electric noted that Transmission Line 7L77 was constructed in 1963 and the requirements for determining inter-circuit separation were not as clear compared to the current *Alberta Electrical Utility Code* requirements. ATCO Electric stated that the project is designed to meet or exceed *Alberta Electrical Utility Code* requirements and the design standards utilized for the project make it unlikely that clearance violations will occur in the future. ATCO Electric advised that its current practice is to share the cost of mitigating clearance issues with understrung distribution lines with the distribution facility owner. ATCO Electric committed to continuing its relationship with Lakeland REA to address operation and design matters into the future and submitted that the condition requested by Lakeland REA is not necessary or appropriate.⁸³

150. ATCO Electric noted that Lakeland REA confirmed that it has no firm plans to expand its distribution system in this area for the next five years. ATCO Electric argued that any expansion plans are speculative and submitted that the Commission has found that impacts on speculative developments should not be given significant weight.

151. In response to concerns about future costs, ATCO Electric submitted that it will share the costs with Lakeland REA so that Lakeland REA does not pay more than it would have had to pay if its own distribution line was in place. If a ground clearance issue arises, Lakeland REA will not have to assume any more costs to correct the violation than if its line were not understrung.

152. ATCO Electric noted that it has worked with Lakeland REA within the terms set out by the *2003 Wire Owners Agreement* and did not object to using the *2003 Wire Owners Agreement* as a guide to its relationship with Lakeland REA with respect to the understrung Lakeland REA distribution facilities.⁸⁴

153. ATCO Electric stated that it will design the temporary distribution lines to meet *Alberta Electrical Utility Code* requirements, and committed to reviewing the condition of the temporary structures during construction and replacing them if necessary.⁸⁵ ATCO Electric stated that it will be responsible for mitigating issues that arise during project construction. If any other incidences occur, ATCO Electric will conduct an investigation to determine the underlying cause which will determine the assignment of liability.⁸⁶ Therefore, ATCO Electric submitted that it is neither necessary nor appropriate to include conditions stating that ATCO Electric will be solely responsible for any issue or costs arising from the temporary relocation of Lakeland REA's distribution infrastructure. In addition, ATCO Electric submitted that it anticipates that distribution customers will experience two, two to three-hour outages to facilitate the understringing of the distribution line and that it intends to provide three to five days notice to landowners for planned outages on distribution systems.

154. ATCO Electric stated that a sale of Transmission Line 7L65 is unlikely and that such a sale would be subject to Commission approval. Nonetheless, it committed that Lakeland REA's

⁸³ Exhibit 24102-X0176, ATCO Electric Reply Evidence - Final, PDF page 51.

⁸⁴ Exhibit 24102-X0205, ATCO Electric Final Argument, PDF page 72.

⁸⁵ Exhibit 24102-X0205, ATCO Electric Final Argument, PDF page 70.

⁸⁶ Exhibit 24102-X0176, ATCO Electric Reply Evidence - Final, PDF page 52.

continued access to the understrung transmission line would be included as a condition of the sale, should it occur.

155. ATCO Electric submitted that it will be responsible for costs of altering Lakeland REA's distribution system to the extent that the alterations are required to accommodate the project. It submitted that it has made reasonable proposals to accommodate Lakeland REA customer connections but that it "should not be required to incur additional expense to mitigate existing deficiencies in Lakeland REA's distribution system when such expense is not technically required and such expense would ordinarily be borne by the Lakeland REA or its member-customers."⁸⁷

9.3 Commission findings

156. The Commission finds that the conditions requested by Lakeland REA are either not necessary, not reasonable, or not in the public interest. The Commission notes that ATCO Electric has made a number of commitments or communicated information regarding its practices in response to the requested conditions. In general, the Commission finds ATCO Electric's responses to be reasonable and does not consider it necessary to enshrine these commitments or practices in the form of conditions.

157. Specifically, the Commission finds that ATCO Electric's proposed clearances will meet or exceed the *Alberta Electrical Utility Code* and finds that increasing the clearance height in case of future expansion or future changes to the electrical code is not prudent.

158. In addition, the Commission finds ATCO Electric's proposal to share future costs such that Lakeland REA does not pay more than it would have to pay had facilities not been understrung to be reasonable.

159. The Commission notes that many of ATCO Electric's responses to Lakeland REA-proposed conditions contained relevant information that likely would have been useful to Lakeland REA earlier in the process. While the Commission accepts that ATCO Electric's participant involvement program met the requirements of Rule 007, it considers it possible that some of Lakeland REA's concerns may have been identified and alleviated by additional, meaningful consultation. The Commission emphasizes that its hearing process should not be used as a substitute for consultation and that applicants should consider all reasonable options to resolve the objections of parties prior to filing an application.

10 Environmental impacts

10.1 Views of ATCO Electric

160. ATCO Electric prepared an environmental protection plan (EPP) document that itemized and described more than 115 mitigation measures that would eliminate or reduce the potential effects of the project on the environmental components and the routes being considered.⁸⁸ ATCO Electric stated that the EPP will be continually updated as needed up until the start of construction and during construction based on new or updated site-specific information. ATCO Electric stated that it had no concerns with providing a copy of the final EPP to the TZLG.⁸⁹

⁸⁷ Exhibit 24102-X0205, ATCO Electric Final Argument, PDF page 74.

⁸⁸ Exhibit 24102-X0022, Attachment 8 of Facility Application.

⁸⁹ Exhibit 24102-X0219, ATCO Reply Argument, PDF page 23.

161. ATCO Electric retained Matrix Solutions Inc. (Matrix) to prepare an environmental evaluation report for the project.⁹⁰ The report was based on desktop information, supplemented by 2018 wetland, rare vegetation and weed and wildlife field surveys. It described the existing conditions for the environmental components of the study area, including terrain and soils, vegetation, wetlands, wildlife and wildlife habitat, land use and environmentally significant areas, and surface water, and discussed and assessed the potential adverse effects of the project on these environmental components. Seventy-eight per cent of the project footprint is agricultural land use, followed by wetland and natural parkland land use.⁹¹

162. The environmental evaluation also compared the potential environmental effects of the preferred route to the alternate route. Compared to the alternate route, the report noted that the preferred route is one kilometre shorter and parallels an additional 13 kilometres of existing road. The preferred route intersects 10 environmentally significant areas (ESAs) while the alternate route intersects 12 ESAs. A small portion of both the preferred and alternate routes cross Vermilion Provincial Park for the same distance. The environmental evaluation concluded, however, that only minor distinctions in environmental conditions between the preferred and alternate routes were observed, and therefore the overall difference in potential environmental effects between the routes is considered negligible.⁹²

163. In both of ATCO Electric's amendments on November 1, 2019, and January 31, 2020, it stated that the existing environmental conditions associated with the amended routes were not materially different from the conditions for the original routes.⁹³

164. There is a total of 66 Class 3 to 5 wetlands within 50 metres of the original preferred route compared to 68 Class 3 to 5 wetlands within 50 metres of the original alternate route.⁹⁴ The environmental evaluation determined that most wetlands overlapped by the transmission line right-of-way will not be directly impacted because transmission line structures can be placed outside the wetland area with the conductor spanning the wetland. For large wetlands, ATCO Electric stated it will consider the feasibility of designing a longer span to avoid placing structures in wetlands. The environmental evaluation also stated that ATCO Electric will use matting and avoid vegetation grubbing in wetlands and riparian areas to further minimize effects to wetland vegetation and soils.

165. In its reply evidence, ATCO Electric submitted that it does not agree to the adoption of the TZLG's proposed Wetland Disturbance and Right of Way Protocol (Wetland Protocol) as a condition of approval. ATCO Electric submitted that its EPP and other provincial regulatory requirements already have adequate procedures in place to address potential effects to wetlands. ATCO Electric submitted that any permissive language in its EPP is necessary to allow a diversity of mitigation measures and regulatory requirements to be considered, adapted and implemented to respond to a variety of different circumstances and conditions.⁹⁵ ATCO Electric submitted that the Wetland Protocol's language, which aims to permit zero impacts on wetlands, is not consistent with provincial environmental legislation administered by AEP. It submitted

⁹⁰ Exhibit 24102-X0002, Attachment 2 of Facility Application.

⁹¹ Exhibit 24102-X0002, Attachment 2 of Facility Application, page 40.

⁹² Exhibit 24102-X0002, Attachment 2 of Facility Application, page 45.

⁹³ Exhibit 24102-X0143, Amendment Application, PDF page 7.

⁹⁴ Exhibit 24102-X0047, Response to AUC IR Round 1, pages 8-9 (Table 1).

⁹⁵ Exhibit 24102-X0219, ATCO Reply Argument, PDF page 17.

that its EPP contains a greater variety of wetland mitigations than the TZLG's proposed Wetland Protocol.⁹⁶

166. ATCO Electric generally agreed to the recommendation of Cliff Wallis, the TZLG's environmental expert, to schedule work in and around wetlands during frozen conditions or use access matting. ATCO Electric stated that it plans to complete construction work in frozen or dry conditions, particularly in sensitive areas such as wetlands. Where this is not possible due to weather conditions, mitigation measures will be discussed with the project's environmental advisor, including consideration of access matting or low ground pressure equipment. In response to a request by the TZLG during the hearing, ATCO Electric submitted a copy of its *Working in Wet/Thawed Conditions and Restricted Activity Periods* and its *Installing and Maintaining Access Mats* standard operating procedures that form part of ATCO Electric's environmental management system.⁹⁷ The scope of these documents include planning and mitigation considerations for working in wet/thawed ground conditions, working during spring breakup, and working during fish and wildlife restricted activity periods, and how to plan, install, monitor and maintain access mats.

167. ATCO Electric committed to considering AEP's *Voluntary Shut Down Criteria For Construction Activity or Operations* document under wet conditions but submitted there may be situations where ATCO Electric will not be able to shutdown such as a critical point where construction must continue for a short duration. However, ATCO Electric stated that it would still follow the *Voluntary Shut Down Criteria* in such a situation by contacting the AEP regional conservation and reclamation inspector to discuss mitigation options, expectations and contingency plans. ATCO Electric noted that the *Voluntary Shut Down Criteria* does not require the cessation of work in all instances of excessively wet conditions, provided other appropriate mitigation measures are implemented.

168. ATCO Electric agreed to Mr. Wallis's recommendation to map wetlands more accurately using historical and recent aerial photography and field observation, and committed to completing further surveys where necessary to ensure that wetland boundaries are properly delineated and mapped once the route and structure locations have been finalized.

169. Matrix prepared a separate desktop review technical memorandum on the removal, salvage, and decommissioning of the existing Transmission Line 7L65 structures and right-of-way. ATCO Electric acknowledged that the wood poles being salvaged as part of the project were treated with wood preservatives and that under certain circumstances these preservatives pose an ecological risk. ATCO Electric stated that it will conduct a Phase 1 environmental site assessment, and a Phase 2 environmental site assessment if necessary, to assess potential soil and water contamination along the portion of the project footprint being permanently decommissioned and reclaimed. If concentrations of potential contaminants of concern are detected above the *Alberta Tier 1 Soil and Groundwater Remediation Guidelines* and the *Environmental Quality Guidelines for Alberta Surface Water*, then ATCO Electric will develop a remedial action plan. ATCO Electric also stated that it would apply for a reclamation certificate from AEP for the portion of the right-of-way that is being permanently decommissioned and reclaimed.

⁹⁶ Exhibit 24102-X0219, ATCO Reply Argument, PDF page 20.

⁹⁷ Exhibit 24102-X0195, ATCO-Undertaking 001.

10.2 Views of the TWP510 - ZL65 Land Owner's Group

170. The TZLG retained Cliff Wallis of Cottonwood Consultants to review Matrix's environmental evaluation report and conduct his own desktop evaluation of the biodiversity effects of the project and a relative comparison of the preferred and alternate route options.⁹⁸

171. Mr. Wallis found that there are important native habitats along the environmentally significant Vermilion River valley, including breeding bird communities, productive waterfowl wetlands, several Ducks Unlimited projects, significant movement corridors for ungulates and birds, a great blue heron colony, waterfowl staging, and Vermilion Provincial Park.⁹⁹ Mr. Wallis noted that the alternate route segment from Node B75 to Node A80 parallels this valley, and therefore recommended avoiding this valley by following the preferred route in this area.¹⁰⁰

172. Mr. Wallis concluded that all the route options are considered viable from a biodiversity perspective, and that there are only minor differences between the preferred route and the alternate route segments. Mr. Wallis did, however, recommend the preferred route from Node D16 to Node C18 and from Node C22 to Node C28 because they parallel existing roads, and the preferred route from Node B75 to Node A80 because it avoided ESAs.¹⁰¹

173. Members of the TZLG developed a wetland protocol document to address some of their environmental concerns.¹⁰² If the project were to be approved, the TZLG requested that as conditions of approval the Commission require ATCO Electric to comply with its EPP and the TZLG's Wetland Protocol. The TZLG submitted that ATCO Electric's procedures for reducing effects to wetlands are both inadequate and not followed by ATCO Electric's field staff.¹⁰³

174. The TZLG stated that ATCO Electric's use of conditional wording such as "where/if possible" and "where feasible" in the project's EPP provides opportunities for ATCO Electric not to follow its mitigation measures. The TZLG noted that ATCO Electric would not agree to the imposition of a condition requiring ATCO Electric to undertake construction in and around wetlands only during the winter months and this causes TZLG members to question ATCO Electric's commitment to follow its EPP.

175. The TZLG also requested that the Commission require ATCO Electric to shutdown/postpone construction work during excessively wet conditions in accordance with AEP's *Voluntary Shut Down Criteria For Construction Activity or Operations* document. The TZLG submitted that this *Voluntary Shut Down Criteria* document is not voluntary, but rather mandatory, because failure to comply with the document may result in enforcement action by AEP under the *Environmental Protection and Enhancement Act*.¹⁰⁴

⁹⁸ Exhibit 24102-X0117, Evidence of Cliff Wallis.

⁹⁹ Exhibit 24102-X0117, Evidence of Cliff Wallis, pages 14-15.

¹⁰⁰ Exhibit 24102-X0117, Evidence of Cliff Wallis, page 20.

¹⁰¹ Exhibit 24102-X0113, Submissions of the TWP510-ZL65 Landowner Group, PDF pages 11-12; Exhibit 24102-X0117, Evidence of Cliff Wallis, pages 2-3 and 32-33.

¹⁰² Exhibit 24102-X0113, Submissions of the TWP510-ZL65 Landowner Group, PDF page 10; Exhibit 24102-X0113, TZLG Wetlands Protocol, Exhibit 24102-X0116.

¹⁰³ Exhibit 24102-X0204, TZLG & LREA Final Argument - 2020 02 20, page 23.

¹⁰⁴ Exhibit 24102-X0218, Reply Argument of TZLG and LREA, page 15.

10.3 Commission findings

176. The Commission finds that with the proper implementation of the mitigation measures proposed in ATCO Electric's EPP, the environmental effects of the project will be minimal. The Commission finds the fact that the majority of the routes parallel existing linear developments and that the preferred route reuses the existing right-of-way within Vermilion Provincial Park to be further evidence that the project is unlikely to result in significant adverse effects to the environment. The Commission also notes Mr. Wallis's conclusion that all routes are acceptable from a biodiversity perspective.

177. The Commission notes that ATCO Electric has committed to continually updating its EPP as needed both up until the start of and during construction, and to complying with its EPP. The Commission expects that ATCO Electric will provide a copy of its EPP to the TZLG prior to the start of construction.

178. The Commission considers ATCO Electric's intent to construct the project during frozen conditions to be an important factor in mitigating environmental effects and one that interveners also clearly found critical. The Commission recognizes that events may arise that mean some activities need to be constructed under non-frozen conditions, but the Commission expects these events to be minimal and is satisfied that ATCO Electric will take appropriate steps to limit these events and to mitigate any potential adverse effects that could potentially arise from them. The Commission is satisfied that ATCO Electric will comply with AEP's *Voluntary Shut Down Criteria* and does not consider it necessary or prudent to impose conditions on this matter.

179. The Commission acknowledges that ATCO Electric agreed to several recommendations by Mr. Wallis, including committing to developing a snake mitigation protocol for the project. The Commission is satisfied that ATCO Electric will follow through with this and does not consider it necessary to include this as a condition of approval.

180. The Commission accepts the evidence of Matrix that the overall difference in potential environmental effects between routes is negligible and that of Mr. Wallis that there are only minor differences between the preferred and alternate route segments. The Commission notes that Mr. Wallis put forward recommendations on certain segments and the Commission will consider those when making its routing determination.

11 Routing

11.1 Views of ATCO Electric

11.1.1 Routing criteria and methodology

181. ATCO Electric stated that its specific routing and siting criteria are guided by Rule 007, Alberta Environment's R&R/11-03: *Environmental Protection Guidelines for Transmission Lines*, and factors as determined by the professional judgement of experienced planners.¹⁰⁵ ATCO Electric said that typical routing criteria includes potential environmental, social, cultural, land-use, resource and technical factors.

¹⁰⁵ Exhibit 24102-X0001, Atch 1_7L65 Line Rebuild_Application Text, PDF page 23, paragraph 56.

182. ATCO Electric explained that routing is an evolutionary process. To begin this process, it identified an area between the designated termination points, generally centred around the existing Transmission Line 7L65 and encompassing approximately two full townships north and south of the primary east-west axis of Transmission Line 7L65, and designated this area as the study area. Once identified, the study area is then refined to arrive at conceptual routes.

183. During the conceptual routing development stage, ATCO Electric stated that it worked with AEP, Alberta Transportation and affected municipalities (the Town of Vermilion and the counties of Minburn, Beaver, and Vermilion River) to assess routing possibilities and environmental constraints. These discussion occurred during early engagement meetings throughout the summer in 2017.

184. Due to the predominantly midfield alignment of the existing Transmission Line 7L65, ATCO Electric only proposed rebuilding the transmission line along the existing Transmission Line 7L65 right-of-way where it found the negative impact of changing the route would be more significant than the current midfield placement.¹⁰⁶ ATCO Electric stated that following the existing route extensively would result in greater overall impacts to land use than an alignment more closely following alongside nearby roads, as there are several instances where the existing Transmission Line 7L65 traverses directly through or very close to yard sites and other built-up areas. Further, ATCO Electric indicated that rebuilding the transmission line along the existing right-of-way would require significant outages and it did not consider this to be feasible.

185. ATCO Electric conducted two rounds of consultation with stakeholders on its preliminary route concepts. After identifying the routes that most accurately fulfilled the selection criteria and minimized impacts to stakeholders, some route segments were rejected from further consideration while others were further refined. Once it completed the internal review of stakeholder feedback, environmental datasets, other constraints and opportunities, and subsequent route refinement, ATCO Electric released a second round consultation package reflecting routing decisions made during first round consultation to all potentially affected stakeholders. Based on the stakeholder consultation and analysis of the route metrics, ATCO Electric selected a preferred route (in red below) and five alternate route segments (in blue below) for submission to the AUC.

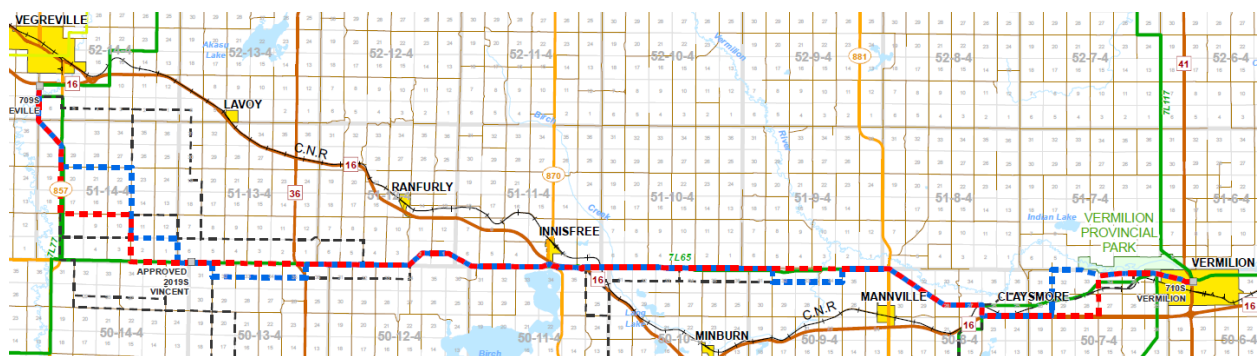


Figure 3. Transmission Line 7L65 routes¹⁰⁷

¹⁰⁶ The existing transmission line enters the town of Vermilion through Vermilion Provincial Park; ATCO intends to use the existing right-of-way in this area based on consultation with AEP and the Town of Vermilion.

¹⁰⁷ Exhibit 24102-X0008, Atch 4_7L65 Line Rebuild_Reference Map.

11.1.2 Preferred and alternate routes

186. ATCO Electric stated that the preferred and alternate routes predominantly follow existing linear infrastructure and approximately 75 per cent of the preferred route is located within road allowance, while the remainder mostly parallels or is located within the right-of-way of the existing transmission line.

187. ATCO Electric submitted an amendment to its application on November 19, 2019, that resulted in a change to the preferred route and maintained the previously preferred route as an alternative segment. In order to avoid two residences and impacts to a shelterbelt, the new preferred route would travel around the northwest quarter of Section 32, Township 51, Range 9, west of the Fourth Meridian.

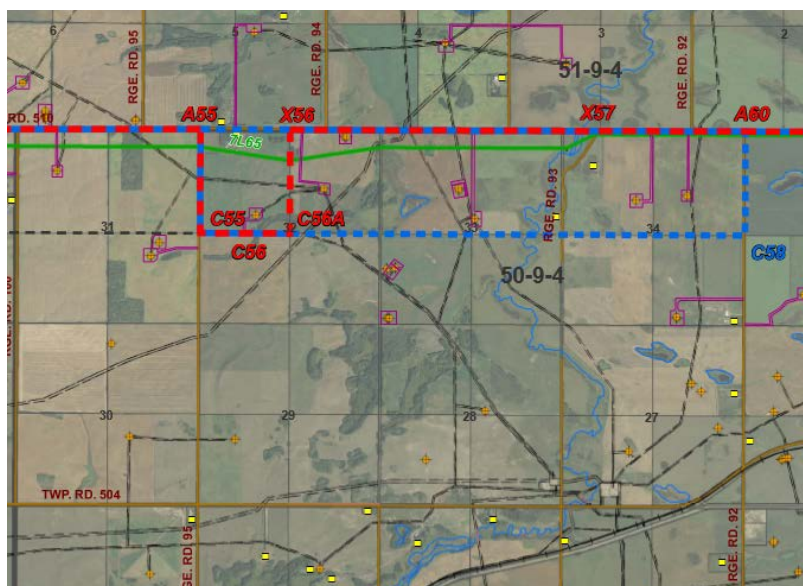


Figure 4. Amended route¹⁰⁸

188. ATCO Electric stated that to mitigate specific features arising from environmental assessments, landholder discussions or location of buried facilities, the structure or right-of-way placement may be shifted laterally within 15 metres of the proposed centerline, if and where appropriate as per Rule 007.¹⁰⁹

189. ATCO Electric explained that during the first round of consultations, the Town of Vermilion expressed a desire to have both existing transmission lines 7L65 and 7L129 rerouted away from the town. The Town's concern was primarily focused on impacts to a proposed subdivision located in the northwest corner of the town. However, AEP expressed a concern regarding the taking of new easement within Vermilion Provincial Park and preferred instead that Transmission Line 7L65 be rebuilt within the existing easement on provincial park lands. A compromise was reached between the Town, ATCO Electric and AEP, whereby Transmission Line 7L65 would be rebuilt within the existing provincial park easement as planned up to Node A87; the segment west of Node A87 to where the existing lines 7L65 and

¹⁰⁸ Exhibit 24102-X0143, ATCO_Amendment_Application_7L65_24102.

¹⁰⁹ Exhibit 24102-X001, Atch 1_7L65 Line Rebuild_Application Text, PDF page 12, paragraph 23.

7L129 diverge, would be a rebuild of both lines 7L65 and 7L129 on double-circuit structures within a single narrower right-of-way.

190. ATCO Electric stated that comparative analysis of the preferred route (nodes B8 to B10 to C14) and the first alternate route segment (nodes B8 to C12 to C14) indicated that both routes are very similar. Although the preferred route would potentially affect more residences, there would be no new residences exposed to the project within 300 metres. In addition, the preferred route would follow Highway 857 to a greater extent which is a transportation corridor already containing existing Transmission Line 7L77. Lastly, the alternate route would require the understringing of 1.5 kilometres of existing distribution line which would result in a marginal cost increase over the preferred route.

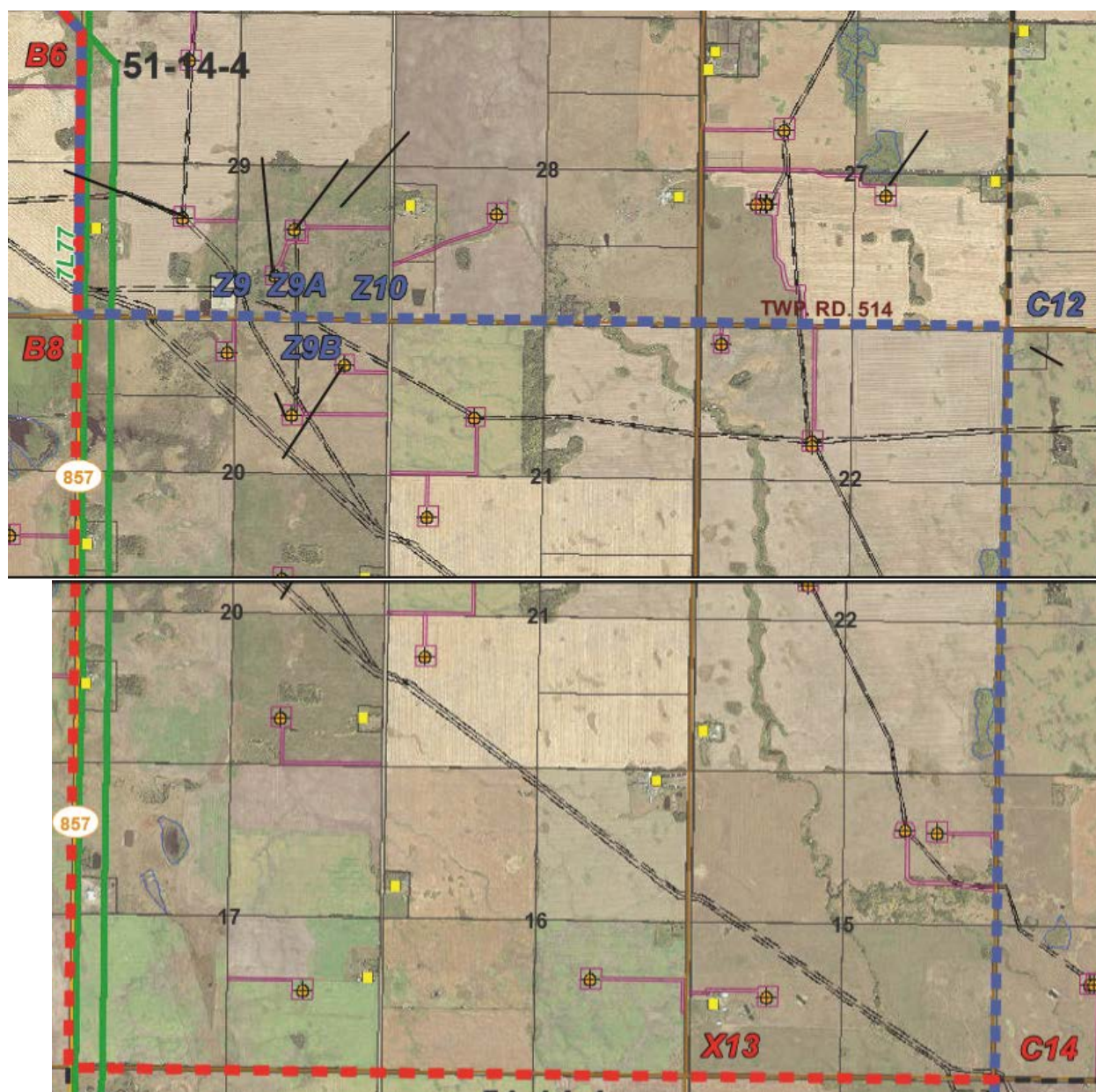


Figure 5. First alternate route segment¹¹⁰

¹¹⁰ Exhibit 24102-X0014, Atch 6_7L65 Line Rebuild_Route Mosaic Maps, PDF pages 1 and 2.

191. ATCO Electric stated that a comparative analysis of the preferred route (nodes D16 to D18 to C20) and the second alternate route segment (nodes D16 to C18 to C20) indicated that both routes are very similar. The preferred route would result in no new residences exposed to the project within 800 metres. Furthermore, it follows the municipal road allowance to a greater extent than the alternate route. The alternate route would require approximately 3.25 kilometres more quarter line alignment than the preferred route, which would result in a marginal increase to other land use impacts (e.g., cultivated land and wetlands on the right-of-way). ATCO Electric submitted that the alternate route would cost an additional \$194,000.

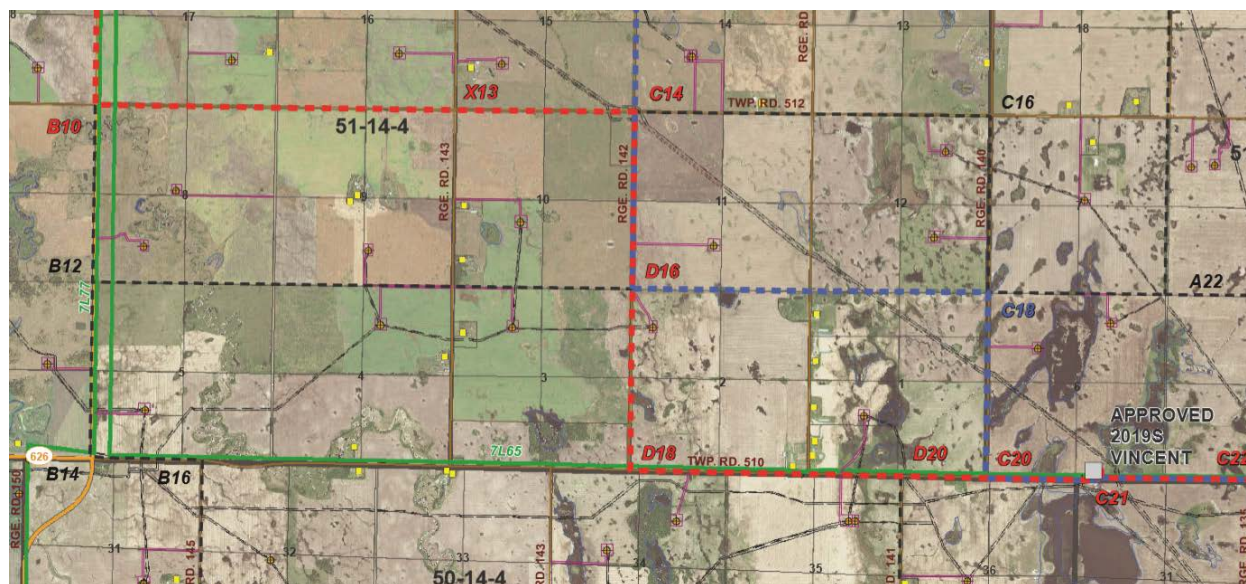


Figure 6. Second alternate route segment¹¹¹

192. ATCO Electric stated that although the preferred route (Node C22 to Node C28) may potentially impact more residences and require the understringing of approximately 5.6 kilometres of existing Lakeland REA distribution line, it is superior to the third alternate route segment (nodes C22 to C24 to C27 to C28) with respect to almost all other impacts. The preferred route would avoid approximately 1.9 kilometres of additional transmission line length, additional corner structures, and additional right-of-way required by the alternate route. Further, the alternate route would require more quarter line alignment than the preferred route which would result in an increase of other land use impacts and reduced accessibility. ATCO Electric stated that the alternate route would cost an additional \$956,000.

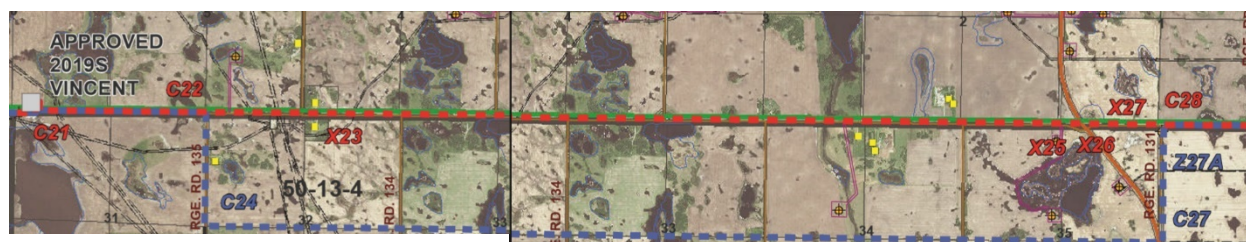


Figure 7. Third alternate route segment¹¹²

¹¹¹ Exhibit 24102-X0014, Atch 6_7L65 Line Rebuild_Route Mosaic Maps, PDF page 2.

¹¹² Exhibit 24102-X0014, Atch 6_7L65 Line Rebuild_Route Mosaic Maps, PDF pages 2 and 3.

193. The fourth alternate segment, the previously preferred route, would begin at Node A55 and travel east to Node X56 along Township Road 510 to rejoin the preferred route. The previously preferred route would be in close proximity to two residences and may require a large portion of a shelterbelt to be cleared. ATCO Electric stated that although this alternate segment may potentially affect more residences within 150 metres, it is superior to the preferred route in almost all other categories, including following of existing linear developments and greater access. The alternate route would require the understringing of an existing Braes REA distribution line; however, this is balanced by the avoidance of approximately 1.6 kilometres of additional transmission line length, four additional corner structures, and additional right-of-way required by the preferred route. The amended preferred route requires more quarter line alignment, which will result in an increase of other land use impacts (e.g., cultivated and pasture land on the right-of-way) and reduced accessibility. The alternate route would cost approximately \$1 million less than the amended preferred route.¹¹³

194. When it amended its application, ATCO Electric maintained the previously proposed alternate route segment (nodes A55 to C55 to C58 to A60) in this area, now the fifth alternate segment, which also avoided the two residences and the impacts to the shelterbelt. It is the same length as the amended preferred route but requires more quarter line alignment.



Figure 8. Amended preferred route and fourth and fifth alternate route segments¹¹⁴

195. ATCO Electric stated that a comparative analysis of the preferred route (nodes B75 to B78 to B78B to A80) and the sixth alternate route segment (nodes B75 to A76 to A80) indicated that both routes are very similar in most attributes. ATCO Electric stated that the main difference is that the preferred route follows Highway 16 and other municipal road allowances to a greater extent, whereas the alternate route involves more midfield routing, taking the alignment of an existing distribution line to the south of Vermilion Provincial Park. ATCO Electric stated the alternate route would cost an additional \$184,000.

¹¹³ Exhibit 24102-X0149, ATCO-AUC-2019NOV18_IR_Round_3_Response.

¹¹⁴ Exhibit 24102-X0143, ATCO_Amendment_Application_7L65_24102.

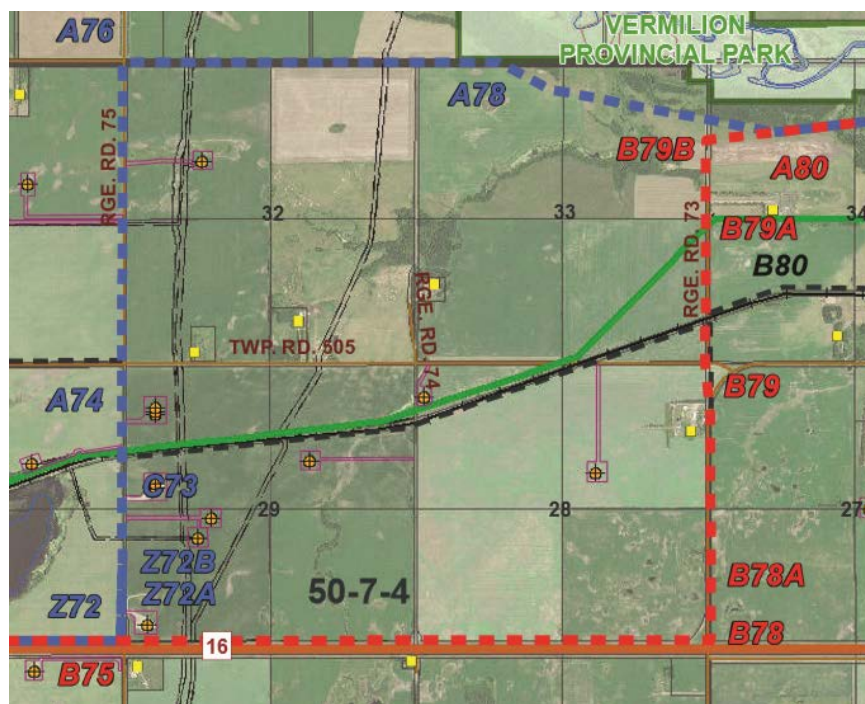


Figure 9. Sixth alternate route segment¹¹⁵

11.2 Views of the interveners

196. Members of the TZLG expressed concerns about the proposed routing of the preferred route and some of the alternate segments and the routing criteria and considerations used by ATCO Electric in its selection of the preferred and alternate routes.¹¹⁶ The TZLG submitted that the application fails to, “appropriately, adequately, or fully address the concerns of TZLG.”¹¹⁷ The group stated that certain alternate segments are superior to the preferred route and noted Mr. Wallis’s conclusions that the differences between the preferred route and various alternate segments are modest and landowner preferences to address site specific issues, e.g., shelterbelt removal, will likely be of greater importance in decision-making in some instances.¹¹⁸ In addition, it submitted that the preferred route would see transmission line structures located closer to residences and impacting agricultural lands or shelterbelts not previously affected by the existing Transmission Line 7L65 alignment.

197. The TZLG requested that the Commission deny the application or in the alternative, that the Commission approve the project with a combination of the preferred route and the alternate route as follows:¹¹⁹

- a) Approval of the preferred route from nodes B2 to B8 to B10.
- b) Approval of a combination of the preferred and alternate routes with some modifications. The requested routes are either:

¹¹⁵ Exhibit 24102-X0014, Atch 6_7L65 Line Rebuild_Route Mosaic Maps, PDF page 10.

¹¹⁶ Exhibit 24102-X0113, 2019 06 13 Master Submissions of TZLG.

¹¹⁷ Exhibit 24102-X0218, Reply Argument of TZLG and LREA, PDF page 47, paragraph 150.

¹¹⁸ Exhibit 24102-X0117, D - Evidence of Cliff Wallis.

¹¹⁹ Exhibit 24102-X0204, TZLG & LREA Final Argument - 2020 02 20, PDF pages 5 and 6.

- (i) to continue the preferred route from B10 to C14 and alternate segment from C14 to C20; or
- (ii) the D18 to D20 preferred route segment could be buried and continue overhead at C20.
- c) Approval of the preferred route with sufficient conditions to address the concerns raised by the members of TZLG that are affected by this routing and other TZLG members along the preferred routes.
- d) Approval of the amended preferred route from nodes A55 to X56.

198. The TZLG argued that the alternate route segment from nodes B8 to C12 to C14 is not in the public interest as it would result in the clearing of trees, fencing and wetlands located within the conservation easement the Hayduks' have with the North Saskatchewan Watershed Alliance. Further, that "[t]he Hayduks' action of seeking alternate pasture for their cows at a higher cost is in recognition of the public interest served by protection of the wetland and the surrounding vegetation for future generation."¹²⁰

199. Kendall Freed expressed concern that the preferred route from Node B8 to Node C14 would result in 18 new poles to farm around on his lands. He indicated a preference for a route similar to the alternate route but along the south side of Township Road 514.

200. The TZLG submitted that the alternate route segment from Node D16 to Node C20 had lower residential impacts than the preferred route. It stated that this segment has one residence between 300 and 400 metres from the proposed line routing while the preferred route has two residences within 300 metres including one 74 metres away. It also submitted that there was more landowner opposition to the preferred route and that no party that objected to the alternate route segment registered or participated in this proceeding.

201. The TZLG argued that the Commission has approved routes with a higher cost when less costly options were applied for. It noted that the Commission carefully weighs the environmental, economic and social impacts as referenced in Decision 2013-177¹²¹ and Decision 2013-233¹²² where the cost difference was determined to be not significant enough when compared to the impacts. The TZLG argued that the preferred route from Node A55 to Node X56 would avoid the removal of Mr. J. McLaughlin's shelterbelt of spruce trees that were planted approximately 50 years ago. In addition, the TZLG asserted that the extra \$1 million in cost for the preferred route to avoid these landowner impacts is not significant given the total cost of the project.

202. The Braes and Claysmore REAs submitted correspondence¹²³ stating that they had settled with ATCO Electric through consultation and stated their support for the preferred route which includes the understringing of their distribution lines. They submitted that the preferred route, "represents the least adverse and greatest possible maximization of existing assets."¹²⁴ They

¹²⁰ Exhibit 24102-X0218, Reply Argument of TZLG and LREA, PDF page 7, paragraph 17.

¹²¹ Decision 2013-177: Alberta Electric System Operator and AltaLink Management Ltd. - Fidler 312S Substation Transmission Project, May 10, 2013.

¹²² Decision 2013-233 (Errata): ATCO Electric Ltd. - Bonnyville to Bourque Transmission Project, July 23, 2013.

¹²³ Exhibit 24102-X0144, Letter re: Braes and Claysmore REAs support Amended Application.

¹²⁴ Exhibit 24102-X0203, Final Argument of Braes REA and Claysmore REA, PDF page 6.

argued that although the amended preferred route increases the length of the transmission line, it has the least impact on the REAs and their members, is a reasonable cost increase and promotes proactive consultation between the REAs and utilities. Further, it submitted that no intervenor objected to the amended preferred route and that the TZLG supported the route change.

203. Lakeland REA stated that it owns distribution assets along both the preferred route and alternate segments¹²⁵ and that the proposed project should be denied. In cross-examination, Mr. Werstiuk stated that the REA is in favour of the preferred route from Node B8 to Node C14¹²⁶ and from Node C22 to Node C28.¹²⁷ In cross-examination, Lakeland REA stated that it ultimately is indifferent to either the preferred route or alternate route as each route presents different impacts to its members, though it noted that the preferred route exposes it to further risks and costs down the road.¹²⁸

204. Clint McLaughlin stated that he was opposed to the original preferred route segment from Node A55 to Node A60 but had no objections to the original alternative route segment from nodes A55 to C55 to C58 to A60. He stated his concerns of the original preferred route related to noise, EMF and visual impacts. On January 20, 2020, Mr. C. McLaughlin confirmed that he had no objection to the amended preferred route, but was opposed to the amended alternative route segment between Node A55 and Node X56.¹²⁹

11.3 Commission findings

205. The Commission accepts that the proposed preferred and alternate route segments developed by ATCO Electric are generally compatible with transmission line development, based on the project siting methodology adopted by ATCO Electric. Further, the routes demonstrate efforts to maximize the use of existing linear developments, relocate many midfield alignments to along road allowances, and minimize impacts to stakeholders through consultation. The Commission also notes ATCO Electric's work with AEP, Alberta Transportation and affected municipalities on routing, including remaining with the existing easement within the Vermilion Provincial Park.

206. The Commission finds that the location of the majority of the preferred route within road allowances or along the existing alignment will reduce the overall impacts of the transmission line.

207. Based on its previous findings in this decision, the Commission finds that the project will not result in significant adverse effects to landowners or to the environment and that no party has demonstrated that any route has sufficient adverse impacts to suggest that it would not be in the public interest.

208. Regarding the first alternate route segment from Node B8 to Node C14, the Commission finds that the preferred route will have lower impacts due to it following a larger transportation corridor in Highway 857 and existing Transmission Line 7L77. The Commission notes the support of the TZLG and Lakeland REA for the preferred route, the concerns of the Hayduks and

¹²⁵ Exhibit 24102-X0123, 2019 06 13 Master Submissions of LREA. (Final 5), PDF page 4, paragraph 9.

¹²⁶ Transcript, Volume 2, page 304, lines 18 to 21.

¹²⁷ Transcript, Volume 2, page 305, line 11 to page 307, line 5.

¹²⁸ Transcript, Volume 2, page 318, lines 1 to 6.

¹²⁹ Exhibit 24102-X0170, Clint McLaughlin Info Response to ATCO.

the additional costs of the alternate route as further justification that the preferred route is the lowest impact route.

209. In the area of the second alternate segment from Node D16 to Node C20, the Commission recognizes that the preferred route might have higher residential impacts but that those impacts would be lower than those of the existing Transmission Line 7L65 alignment. The rebuild would move the transmission line further from those residences and into the road allowance. Meanwhile, the alternate route would require approximately 3.25 kilometres of additional quarter line alignment, which would have associated impacts. The Commission notes Mr. Wallis's recommendation, though minor, for the preferred route from an environmental perspective and given the relative similarity of the two routes, considers the additional cost of the alternate route to be a factor. Accordingly, the Commission finds that the preferred route in this area will have lower overall impacts and is in the public interest. The Commission finds that the incremental impacts of this route are not significant enough to warrant the additional cost that would be required to bury the transmission line from Node D18 to Node D20.

210. Regarding the third alternate segment from Node C22 to Node C28, the Commission finds that the preferred route's shorter length, lower cost, location within the road allowance, and the support of the TZLG to be significant factors in its favour. The Commission notes that the preferred route in this area generally parallels the existing line but improves upon that alignment by relocating it to the road allowance. The largest issue with this route is that ATCO Electric and Lakeland REA have not been able to come to an agreement to understring Lakeland REA's distribution facilities. The Commission finds that locating the transmission line along this route, paired with understringing the distribution facilities, will have the lowest impacts and is in the public interest.

211. The Commission considers that understringing facilities can result in lower environmental impacts as well as lower impacts to landowners, including lower visual impacts relative to having multiple lines parallel to each other. The Commission does not consider that the impacts suggested by Lakeland REA are so significant that they warrant choosing the alternate route segment or not approving the preferred route. The Commission's approval of the preferred route in this segment will require that the distribution be either understrung or relocated. While the Commission considers that understringing will result in lower impacts, as discussed in Section 4.4 of this decision, the Commission does not consider that it has the authority under Subsection 18(2)(d) of the *Hydro and Electric Energy Act* to order Lakeland REA to understring its facilities on ATCO Electric's proposed transmission line. However, the Commission notes that Lakeland REA stated that it was indifferent to the routing in this particular area and, in general, the Commission does not consider that the issues raised by Lakeland REA are so substantial that the two parties should not be able to come to an agreement in order to arrange for the understringing of the facilities. If parties are not able to reach an agreement, the Surface Rights Board could make a determination regarding appropriate compensation to either relocate or understring the distribution line.

212. The Commission recognizes that the previously preferred route from Node A55 to Node X56 will result in the removal of a portion of a shelterbelt and that there is a clear adverse impact to Mr. J. McLaughlin because of this. Nonetheless, the Commission does not consider that this impact is in itself enough to justify approving an alternative route that would follow quarter lines instead of being located within a road allowance and most importantly increase the costs to ratepayers by \$1 million. The Commission notes that Mr. J. McLaughlin will be

compensated for the right-of-way that is taken on his property and that the removal of his shelterbelt would be a factor in the amount of the compensation and that if he and ATCO Electric are unable to come to an agreement, the Surface Rights Board would determine the amount of compensation due to Mr. J. McLaughlin. The Commission finds that the impacts associated with the previously preferred route do not justify the cost increase to ATCO Electric's ratepayers that would be required to avoid those impacts. The Commission finds that the alternate route segment from Node A55 to Node X56 is in the public interest.

213. That being said, the Commission notes that if the transmission line crossed to the north side of Township Road 510, this would avoid the impacts to Mr. J. McLaughlin's shelterbelt. The Commission recognizes that this would potentially result in additional impacts to Mr. C. McLaughlin as well as additional costs and impacts related to road crossings, however it is not clear whether, overall, the impacts of such a route would be lower than the approved route on the south side of Township Road 510. Accordingly, the Commission directs ATCO Electric to assess the merits of a route on the north side of Township Road 510 in the vicinity of Range Road 94 and Range Road 95. The Commission expects that as part of this assessment, ATCO Electric will consult with Minburn County, Braes REA, Mr. C. McLaughlin, Mr. J. McLaughlin, and any other potentially affected stakeholder. The Commission will attach the following as a condition of approval of the application:

- a. ATCO Electric must advise the Commission no later than July 31, 2020, of whether it considers a route on the north side of Township Road 510 in the vicinity of Range Road 94 and Range Road 95 to have lower impacts than the approved route on the south side of Township Road 510.

214. No party in this proceeding objected to the preferred route from Node B75 to Node A80. The Commission notes that the preferred route follows Highway 16 and other municipal road allowances to a greater extent than the alternate route and Mr. Wallis's recommendation for the preferred route because it would avoid an environmentally significant area. Finally, the Commission recognizes that the alternate route would cost an additional \$184,000. As a result, the Commission finds the preferred route is the lowest impact route in this area.

215. Given the above considerations, the Commission finds the project and its preferred route in combination with a portion of the alternate segment from Node A55 to Node X56 to be in the public interest pursuant to Section 17 of the *Alberta Utilities Commission Act*.

216. The Commission notes that in this decision, it did not explicitly respond to each condition requested by the TZLG and Lakeland REA. The Commission is satisfied with ATCO Electric's responses to the conditions and finds that in many cases, the measures ATCO Electric has proposed are equivalent to the spirit of the requested conditions without restricting ATCO Electric in the event of unforeseen circumstances. The Commission expects that ATCO Electric will follow through on its commitments and the mitigations it has proposed and therefore, finds that none of the requested conditions are necessary.

12 Decision

217. Pursuant to sections 14, 15 and 19 of the *Hydro and Electric Energy Act*, the Commission approves the applications and grants ATCO Electric Ltd. the approvals set out in the following appendices:

- Appendix 1 – Permit and Licence 24102-D02-2020 – April 23, 2020, to alter and operate Transmission Line 7L65.
- Appendix 2 – Permit and Licence 24102-D03-2020 – April 23, 2020, to alter and operate Transmission Line 7L134.
- Appendix 3 – Permit and Licence 24102-D04-2020 – April 23, 2020, to construct and operate Transmission Line 7LA65.
- Appendix 4 – Permit and Licence 24102-D05-2020 – April 23, 2020, to alter and operate Transmission Line 7L129.

218. The appendices will be distributed separately.

Dated on April 23, 2020.

Alberta Utilities Commission

(original signed by)

Neil Jamieson
Panel Chair

(original signed by)

Joanne Phillips
Commission Member

(original signed by)

Patrick Brennan
Acting Commission Member

Appendix 1 – Proceeding participants

Name of organization (abbreviation) Company name of counsel or representative
ATCO Electric Ltd. (ATCO Electric) D. Sheehan
TWP510 - ZL65 Land Owner's Group (TZLG) Counsel: I. Okoye Members: C. Bown D. Freed K. Freed J. and C. Hayduk R. Giebelhaus B. Halina A. Hewko and D. Ferguson B. James A. Kuzio K. Makowecki L. Makowecki J. McLaughlin (Greendale Farms) L. Olinek R. and N. Schoettler M. Smook D. Tuck W. and G. Tuck G. and C. Withers D. and D. Yaremicio
Lakeland Rural Electrification Association Ltd. (Lakeland REA) I. Okoye
Braes Rural Electrification Association Ltd. (Braes REA) S. Gibbons
Claysmore Rural Electrification Association Ltd. (Claysmore REA) S. Gibbons
Ed and Eileen Hlus B. Overly
K. Kaziechko
D. MacKenzie
C. McLaughlin
G. Smith
G. and B. Tuck

Appendix 2 – Oral hearing – registered appearances

Name of organization Name of counsel or representative	Witnesses
ATCO Electric Ltd. D. Sheehan J. Salisman	E. Donovan B. Prickett L. Shaben K. Ostermann W. Bailey
TWP510 - ZL65 Land Owner's Group I. Okoye I. Agovic	P. Héroux J. Ness C. Wallis C. Bown K. Freed C. Hayduk J. McLaughlin D. Tuck D. Yaremicio
Lakeland Rural Electrification Association Ltd. I. Okoye I. Agovic	B. Klammer J. Lowes D. Werstiuk
Braes Rural Electrification Association Ltd. S. Gibbons R. Sorgiovanni	
Claysmore Rural Electrification Association Ltd. S. Gibbons R. Sorgiovanni	

<p>Alberta Utilities Commission</p> <p>Commission panel Neil Jamieson, Panel Chair Joanne Phillips, Commission Member Patrick Brennan, Acting Commission Member</p> <p>Commission staff Nicholas Sawkiw (Commission counsel) Trevor Richards Kyle Surgenor Steven Yang</p>
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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. ATCO Electric must advise the Commission no later than July 31, 2020, of whether it considers a route on the north side of Township Road 510 in the vicinity of Range Road 94 and Range Road 95 to have lower impacts than the approved route on the south side of Township Road 510..... paragraph 213

Appendix 3 – Abbreviations

Abbreviation	Name in full
AEP	Alberta Environment and Parks
AESO	Alberta Electric System Operator
ATCO Electric	ATCO Electric Ltd.
Braes REA	Braes Rural Electrification Association Ltd.
Claysmore REA	Claysmore Rural Electrification Association Ltd.
EMF	electromagnetic fields
EPP	environmental protection plan
kV	kilovolt
Lakeland REA	Lakeland Rural Electrification Association Ltd.
Matrix	Matrix Solutions Inc.