

November 18, 2020

To: Parties currently registered in Proceeding 25469

**Alberta Electric System Operator  
Central East Transfer-out Transmission Development Needs Identification Document  
Proceeding 25469  
Application 25469-A001**

**ATCO Electric Ltd.  
Central East Transfer-out Transmission Development Facility Applications  
Proceeding 25469  
Applications 25469-A002 to 25469-A007**

**AltaLink Management Ltd.  
Central East Transfer-out Transmission Development Facility Applications  
Proceeding 25469  
Applications 25469-A008 to 25469-A010**

### **Ruling on standing**

1. In this ruling, the Alberta Utilities Commission determines the standing of persons and groups who have filed requests to participate in a public hearing in which the Commission will consider an application by the Alberta Electric System Operator (AESO) for approval of a needs identification document (NID), and facility applications by ATCO Electric Ltd. and AltaLink Management Ltd. for the Central East Transfer-out (CETO) Transmission Development Project. The CETO project would run east of Red Deer, Alberta to the Halkirk, Alberta area.

2. Persons (including individuals and corporations) who have demonstrated that they have rights that may be directly and adversely affected by the Commission's decision on the applications are legally entitled to participate in the hearing. This permission to participate is referred to as standing.

3. The Commission has authorized me to communicate its decision on standing.

### **Statements of intent to participate**

4. In its notice of hearing in this proceeding, issued on October 13, 2020, the Commission directed any person who had concerns or objections to the applications to file a statement of intent to participate by November 12, 2020. The Commission stated that with respect to ATCO Electric Ltd. and AltaLink Management Ltd.'s facility applications, it considers that persons who own or reside on property located within 800 metres surrounding the finalized right-of-way for any of the proposed routes have standing to participate in the process.

5. The Commission received numerous statements of intent to participate from persons who stated they own, occupy or rent land near the proposed project, two landowner groups representing such persons, the County of Stettler No. 6 and Capital Power Corporation. The Consumers' Coalition of Alberta (CCA) and several Indigenous groups also submitted statements of intent to participate, however, the Commission will consider their standing in a separate ruling.

6. The concerns raised by persons who stated they own, occupy or rent land near the proposed project include the siting of the proposed transmission line, decreased property values, financial impacts, noise impacts, visual effects, negative health effects, impacts on safety, effects on the environment, impacts on agricultural operations, land access, impacts on recreational activities, effects of EMF radiation, interference with existing aerodromes, construction impacts, weed control and adequacy of consultation. Several parties also expressed a concern with the need for the project and its impact on electricity rates in Alberta.

7. The County of Stettler No. 6 submitted a statement of intent to participate in which it indicated that it did not wish to participate in the hearing but requested that the Commission consider a number of factors when making a decision on the facility applications. These include using the least amount of agricultural land within county borders, staying within the county's right-of-way where possible, paralleling existing transmission lines to limit impacts on residents and agriculture, installing lines that will lend themselves to future project capabilities and working with the county to prevent the spread of prohibited or noxious weeds, and control possible cross-contamination.

8. In its statement of intent to participate, Capital Power stated that it owns and operates generating assets in the province and around the project area and that consideration should be given to issues of system-related costs, cost causation and construction contributions, congestion management and ensuring adherence to the AESO's responsibilities under relevant legislation and tariffs.

### **How the Commission determines standing**

9. Section 9(2) of the *Alberta Utilities Commission Act* sets out how the Commission must determine standing:

**(2) If it appears to the Commission that its decision or order on an application *may directly and adversely affect the rights of a person*, the Commission shall**

- (a) give notice of the application in accordance with the Commission rules,
- (b) give the person a reasonable opportunity of learning the facts bearing on the application as presented to the Commission by the applicant and other parties to the application, and
- (c) hold a hearing. [emphasis added]

10. The meaning of the key phrase, "directly and adversely affect," has been considered by the Court of Appeal of Alberta on multiple occasions, and the legal principles set out by the court

guide the Commission when it determines standing. Standing is determined by application of a two-part test. The first test is legal: a person must demonstrate that the right being asserted is recognized by law. This could include property rights, constitutional rights or other legally recognized rights, claims or interests. The second test is factual: a person must provide enough information to show that the Commission's decision on the application may "directly and adversely affect" the person's right, claim or interest.<sup>1</sup>

## **Ruling**

11. The Commission is satisfied that the persons listed in Schedule A to this letter have demonstrated that they have legal rights that may be directly and adversely affected by the Commission's decision on the facility applications. The persons listed in Schedule A own, reside on or rent property located within 800 metres of the finalized right-of-way of the proposed routes. The potential effects described by these persons include decreased property values, financial impacts, noise impacts, visual effects, negative health effects, impacts on safety, effects on the environment, impacts on agricultural operations, reduced land access, impacts on recreational activities, impacts of EMF radiation, construction impacts, weed control and adequacy of consultation.

12. In addition to raising site-specific concerns, certain individuals listed in Schedule A also raised concerns with respect to the need for the project and its potential affect on electricity rates in Alberta. It is the Commission's view that the approval of a need application has the potential to affect all Alberta electricity ratepayers. As such, the Commission finds that those individuals who have raised concerns with the project need and impacts to electricity rates in Alberta also have standing to participate in the AESO's need application. The names of these persons are listed in Schedule B to this letter.

13. Two landowner groups requested standing to participate in this proceeding: the Landowners Opposed to Route C and a group formed and represented by Harold Solick (the Solick Group).

14. When a landowner group requests standing in a Commission proceeding, the Commission generally considers it to have standing if it is authorized to represent one or more persons who have standing to participate. The Commission notes that the Landowners Opposed to Route C represents at least one person determined in each of Schedule A and Schedule B to have standing, while the Solick Group represents at least one person determined in Schedule A to have standing. The Commission therefore grants standing to these landowner groups as the representative of their respective members with standing and has added them to schedules A and B, as appropriate.

15. Gerard and Donna Fetaz filed a statement of intent to participate in which they stated that they own land within 2,500 metres from the proposed project and expressed concerns with project need environmental impacts, safety, routing, and adequacy of consultation. In addition, they stated that they own an aerodrome located 2,500 metres east of and in line with the

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<sup>1</sup> *Cheyne v Alberta (Utilities Commission)*, [2009 ABCA 94](#); *Dene Tha' First Nation v Alberta (Energy and Utilities Board)*, [2005 ABCA 68](#) [*Dene Tha'*].

Tinchebray Substation, that the substation is host to a Capital Power Meteorological Tower that extends into the outer surface of the aerodrome, and that expanding the substation to make it a hub will be contrary to the Municipal Development Plan.

16. Having raised concerns with the project need, the Fetazes are granted standing to participate in the AESO's NID application and have been added to Schedule B. However, the Commission finds that Gerard and Donna Fetaz have provided insufficient information to demonstrate how the Commission's decision on the facility applications may directly and adversely affect their asserted rights. Their land is located 2,500 metres from the finalized right-of-way of the proposed routes and the concerns they raised are either general in nature or related to existing infrastructure (the meteorological tower).

17. In its statement of intent to participate, Capital Power raised issues of system-related costs, cost causation and construction contributions, congestion management and ensuring adherence to the AESO's responsibilities under relevant legislation and tariffs. Given that Capital Power's concerns appear to be related to the AESO's NID, the Commission grants Capital Power standing to participate in the NID application.

18. The Commission acknowledges that the County of Stettler No. 6 does not wish to participate in the hearing but requested that a number of factors be considered when a decision is made on the applications. The Commission will take into account the County's concerns when making its decision.

### **Costs eligibility**

19. Persons who have been granted standing in the facility applications fall within the definition of "local intervener" in Section 22 of the *Alberta Utilities Commission Act* and are therefore eligible to file a costs claim seeking recovery of the costs of their participation in this proceeding, in accordance with the Commission's Rule 009: *Rules on Local Intervener Costs*.

20. Each of the landowner groups granted standing in this proceeding are eligible to potentially recover the costs incurred to represent those of its members that have been granted standing in this proceeding and have authorized the landowner group to represent them. In other words, the group's eligibility to make a local intervener costs claim is entirely dependent on it representing a person who is a local intervener.

21. The Commission considers Capital Power to be ineligible to claim costs of participation in the AESO's NID application given that it is a market participant and excluded by Section 4 of Rule 022: *Rules on Costs in Utility Rate Proceedings*.

22. The Commission emphasizes that eligibility to claim costs does not guarantee full recovery of those costs. Any claims for costs must be filed after this proceeding is concluded, in accordance with Rule 009 or Rule 022, and cost recovery is subject to the Commission assessing the value of a party's contribution to the proceeding. The Commission encourages parties with similar interests and positions to work together to ensure that any expenditures are minimized and costs are not duplicated.

23. Parties with standing in both the facility and NID applications are responsible for distinguishing, in their costs claim, the time, activities and associated expense related to their participation in each of the NID and facility applications.

24. Persons who do not have standing and are not eligible to claim local intervenor costs may choose to have their interests represented in this proceeding by a landowner group that has been granted standing and agrees to accept them as a member of the group.

### **Further process**

25. In accordance with the Commission's November 18, 2020 ruling on the AESO's request to extend the deadline for responses to intervenor information requests, the revised process schedule is set out below for convenience:

<b>Process step</b>	<b>Date</b>
AESO technical session	December 8, 2020
Intervenors' information requests (questions) to applicants	December 17, 2020
Applicants' deadline to respond to information requests	January 20, 2021
Motion day to address outstanding information request issues	February 3, 2021
Intervenors' written evidence deadline	February 17, 2021
Information requests to intervenors	February 26, 2021
Intervenors' deadline to respond to information requests	March 12, 2021
Applicants' reply evidence deadline	March 22, 2021
Commencement of hearing	March 31, 2021

26. If you have any questions, please contact the undersigned at 403-592-4360 or by email at [rob.watson@auc.ab.ca](mailto:rob.watson@auc.ab.ca).

Yours truly,

Rob Watson  
Commission Counsel

Attachments

**Schedule A - Persons and groups with standing in Proceeding 25469 facility applications**

<b>Name</b>	<b>Representative</b>
Landowners Opposed to Route C	Daryl Bennett
Solick Group	Harold Solick
Dwayne Felzien	Daryl Bennett
Pauline and Derrell Blacklock	Nickolas Bailey
J. Heith Johannson	
Jason Felzien	
Wade Yakelashek	
Shannon and Doreen Blumhagen	
Dean Payne	Daryl Bennett
Neil and Deneen Brown	
Murray Rowledge	
Harold Solick	Harold Solick
Glen Morbeck	
Terry Rowledge	
Ted and Ingrid Vander Meulen	
Ron and Marilyn Potter	Daryl Bennett
Jean Payne	Daryl Bennett
Albert Rairdan	
Danny Brown	
Brian Pereault	Bishop Law
Nicole Thorsteinsson	Daryl Bennett
Cody Rowledge	
Mark and Ann Siford	
Lee Chapman	
Ron Duffy	Carscallen LLP
Tammy Bushman	Carscallen LLP
April Aspden	Stringam LLP
Justin Aspden	Stringam LLP
Brian Fletcher	
Craigievar Farms Ltd.	Carscallen LLP
Barry and Terry Haner	Daryl Bennett
Brett Penosky	Daryl Bennett
Elizabeth Borek	Daryl Bennett
Frances Gacek	Daryl Bennett
Gary Konschuh	Daryl Bennett
Janelle and Kent Robinson	Daryl Bennett
Jim Bower	Daryl Bennett
Keith and Sandra Rairdan	Daryl Bennett
Silas Chapman	Daryl Bennett
Thomas Banziger	Daryl Bennett

White Sands Hutterian Brethren	Daryl Bennett
Troy and Diana Walgenbach	Daryl Bennett
Eclipse Pork Ltd.	Carscallen LLP
Bradley Schakel	
Sterling Ventures Ltd.	Carscallen LLP
Norman Lyster	Daryl Bennett
Cheryle Lyster	Daryl Bennett
Sara and John Schultz	
Jack Bruning	
Theo Bruning	Harold Solick
Willem Schakel	Harold Solick
Ross Munce	Harold Solick
John Munce	Harold Solick
Chuck Burden	Harold Solick
Larry Keller	Harold Solick
Erma Keller	Harold Solick
Nova Chemicals Corporation	
Laurie and Dale Nagel	

**Schedule B – Persons and groups with standing in Proceeding 25469 NID application**

<b>Name</b>	<b>Representative</b>
Landowners Opposed to Route C	Daryl Bennett
Gerard and Donna Fetaz	
Murray Rowledge	
Glen Morbeck	
Brian Pereault	Bishop Law
Dwayne Felzien	Daryl Bennett
Barry and Terry Haner	Daryl Bennett
Brett Penosky	Daryl Bennett
Elizabeth Borek	Daryl Bennett
Frances Gacek	Daryl Bennett
Gary Konschuh	Daryl Bennett
Janelle and Kent Robinson	Daryl Bennett
Jim Bower	Daryl Bennett
Keith and Sandra Rairdan	Daryl Bennett
Silas Chapman	Daryl Bennett
Thomas Banziger	Daryl Bennett
White Sands Hutterian Brethren	Daryl Bennett
Troy and Diana Walgenbach	Daryl Bennett
Norman Lyster	Daryl Bennett
Cheryle Lyster	Daryl Bennett
Capital Power Corporation	