

December 21, 2020

To: Parties currently registered in Proceeding 26101

**FortisAlberta Inc.
Waterton Battery Energy Storage System
Proceeding 26101
Application 26101-A001**

Ruling on standing

1. In this ruling, the Alberta Utilities Commission decides whether to hold a public hearing to consider an application by FortisAlberta Inc. relating to a battery energy storage system located in Waterton Lakes National Park.
2. The Commission must hold a hearing if persons who have filed a statement of intent to participate in Proceeding 26101 have demonstrated that they have rights that may be “directly and adversely affected” by the Commission’s decision. Such a person may participate fully in the hearing, including giving evidence, questioning witnesses, and providing argument. This permission to participate is referred to as standing.
3. The Commission issued a notice of application for Proceeding 26101 on December 3, 2020. The Commission received statements of intent to participate from the Alberta Electric System Operator (AESO) and the Consumers’ Coalition of Alberta (CCA).
4. The Commission has authorized me to communicate its decision on standing.

Ruling

5. Standing is determined by application of a two-part test set out in Section 9(2) of the *Alberta Utilities Commission Act*. The first test is legal: a person must demonstrate that the right, claim or interest being asserted is recognized by law. 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.¹
6. The Commission assesses the potential for a “direct and adverse effect” on a case-by-case basis. It considers the specific circumstances of each proposed project application and each statement of intent to participate that it receives. In the past, the Commission has decided that general or broad concerns about a proposed project will generally be insufficient to establish standing, unless a more specific link or connection to the demonstrated or anticipated characteristics of a proposed project is established.

¹ *Cheyne v Alberta (Utilities Commission)*, 2009 ABCA 94; *Dene Tha’ First Nation v Alberta (Energy and Utilities Board)*, 2005 ABCA 68 [*Dene Tha’*].

7. The CCA stated that it is a “coalition of two public interest groups and as a collective is concerned with the tariffs, rates and charges of the various public utilities operating in Alberta and regulated by the AUC.” It argued that because it represents ratepayers and the application will impact utility rates, it has interest in the proceeding.

8. The CCA has not satisfied the test for standing set out in Section 9(2) of the *Alberta Utilities Commission Act*. The CCA failed to provide a reasonable connection between its stated concerns about the tariffs, rates and charges of public utilities and the application before the Commission, in particular how the application will impact utility rates paid by the ratepayers it represents. This proceeding will not determine or impact the tariffs, rates or charges of a public utility. Having regard to the foregoing, the Commission finds that the CCA does not have standing in this proceeding.

9. In a letter filed with its statement of intent to participate the AESO confirmed that it does not object to the project, based on its understanding that the proposed energy storage system would only discharge limited amounts of energy during islanded conditions. The AESO stated that it considers that the market impacts of the project will be negligible, but added that it is preferable for energy storage facilities to be owned by unregulated entities that can compete in the market while also providing reliability services to the transmission and distribution systems. The AESO recommended that the applicant be required to seek approval from the Commission if the proposed energy storage system is to be used or operated differently from what was described in the application.

10. Based on the AESO’s letter, the Commission assumes that the AESO is not seeking to participate in the proceeding unless a hearing is triggered by other parties. Because the Commission has not granted standing to any other party, the Commission considers that it is unnecessary to rule on the AESO’s standing. The Commission will, however, consider the comments provided by the AESO.

11. Given the foregoing, the Commission will not hold a hearing in this proceeding.

12. Should you have any questions, please contact the undersigned at 403-592-4469 or trevor.richards@auc.ab.ca.

Yours truly,

Trevor Richards, P.Eng.
Lead Application Officer
Facilities Division