



FortisAlberta Inc.

**Application for Direction to Pay Compensation Related to
Site Transfers**

March 14, 2024

Alberta Utilities Commission

Decision 28358-D01-2024

FortisAlberta Inc.

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Proceeding 28358

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1 Decision summary

1. In this decision, the Alberta Utilities Commission orders the transfer of certain parts of the service area previously served by Battle River Power Coop REA Ltd. (BRPC) to FortisAlberta Inc. to give effect to its previous ruling in Decision 22164-D01-2018.¹ The Commission further orders the transfer of related facilities associated with the electric distribution system of BRPC and the operation of that part of the electric distribution system from BRPC to Fortis. The Commission also determines the amount of compensation to be paid by Fortis to BRPC in relation to the transfer of electric distribution system facilities to Fortis.

2. For the reasons outlined in this decision, the Commission finds compensation of \$313,971, as calculated by Fortis using the replacement cost new less depreciation (RCN-D) valuation methodology, to be reasonable under the circumstances. The Commission orders Fortis to pay BRPC compensation in the amount of \$313,971.²

2 Introduction and background

3. On August 9, 2023, Fortis filed an application regarding the transfer of electric distribution system assets from BRPC to Fortis and the amount of compensation to be paid by Fortis to BRPC in relation to the alteration of BRPC's service area ordered by the Commission in Decision 22164-D01-2018.

4. Proceeding 22164 concerned an application by Fortis requesting that the service areas of certain rural electrification associations (REAs) be altered to align with municipal franchise agreements (MFAs) between Fortis and various municipalities. Municipal corporate boundaries had expanded through annexation and overlapped with existing REA service areas. In Proceeding 22164, Fortis stated that it had entered into MFAs with a number of municipalities that granted it the exclusive right to provide electric distribution service within the municipalities' corporate limits.

5. In Decision 22164-D01-2018, the Commission determined it was in the public interest to harmonize service areas to reflect the boundaries governed by the MFAs. The Commission altered those REA service areas that overlapped with the municipal franchise areas granted to Fortis. However, the Commission did not order the immediate transfer of those areas or existing REA facilities to Fortis. Instead, the transfer was made contingent on the passing of a municipal bylaw requiring the customers in those areas to connect to Fortis, or the event of any other circumstance set out in Decision 22164-D01-2018, including an existing REA member electing

¹ Decision 22164-D01-2018: FortisAlberta Inc., Application for Orders Confirming Boundaries of FortisAlberta Inc. Exclusive Municipal Franchise Areas, Proceeding 22164, Application 22164-A001, July 16, 2018.

² Exhibit 28358-X0080, Appendix A.

to transfer to Fortis or a change in the member or service, such as a change in ownership of the applicable site.³

6. In this application, Fortis submitted that, since the issuance of Decision 22164-D01-2018, several municipalities have passed bylaws requiring REA members in the municipality to take electric distribution service from Fortis. Fortis also submitted that there have been instances of ownership changes and REA members electing to transfer to Fortis. Fortis submitted that it and BRPC have successfully transferred several services in alignment with the process directed by the Commission in Decision 22164-D01-2018, but that the transfer of 50 sites remains outstanding.

7. Fortis submitted that after numerous discussion and negotiations, Fortis and BRPC could not come to an agreement on the compensation for the assets to be transferred.⁴ Accordingly, Fortis made its application to the Commission to direct the transfer of the assets from BRPC to Fortis and determine the amount of compensation to be paid by Fortis to BRPC.

3 Regulatory framework and compensation methodology

3.1 Legislative framework

8. The parties disagreed about which provisions of the *Hydro and Electric Energy Act* (HEEA) applied to this proceeding. Fortis brought its application under Section 32 of the HEEA. BRPC argued that Fortis should have applied under Section 29 of the HEEA and was required to consider all types of compensation identified in Section 29(4). Two issues are salient in this regard: (i) the transfer of service areas, operation and facilities; and (ii) a methodology to determine the compensation for the transferred facilities.

9. The Commission finds that Fortis correctly applied under Section 32 of the HEEA, and that Fortis was not required to consider all types of compensation identified in Section 29(4) of the HEEA in its application.

10. Pursuant to Section 29(1) of the HEEA, the “Commission ... may alter the boundaries of the service area of an electric distribution system, or may order that the electric distribution system shall cease to operate in a service area or part of it at a time fixed in the order,” as it did in Decision 22164-D01-2018.

11. When the Commission issues an order under Section 29(1) of the HEEA that reduces the service area of an electric distribution system, the Commission “may make provision in the order for” matters set out in Section 29(4), including the payment of compensation to an owner of an electric distribution system. This power is discretionary: the Commission is not bound to include provisions for all or any of the matters set out in Section 29(4) in any order issued under Section 29(1). For example, the Commission did not make provision for the payment of compensation or any related matters in Decision 22164-D01-2018.

12. Section 32 applies only to situations involving an REA. Where an REA has its service area reduced by an order under Section 29, Section 32(1) of the HEEA sets out the Commission’s authority to, “by order transfer to another person the service area or part of it

³ Decision 22164-D01-2018, PDF pages 45-46.

⁴ Exhibit 28358-X0001, application, PDF page 5, paragraph 5.

served by the [REA].” An order under Section 32 of the HEEA requires that there first be an order under Section 29.

13. When issuing an order under Section 32(1) of the HEEA, the Commission may order the transfer of facilities associated with the REA’s electric distribution system and the operation of that system, or part of it, by any party under Section 32(2)(a). If making provision under Section 32(2)(a), the Commission may also provide for “the payment of compensation, if any, and the matters in respect of which compensation is payable,” and determine “the amount of compensation if that amount cannot be agreed on between the parties,” among other things under Section 32(2)(b).

14. BRPC submitted that Section 32 of the HEEA applies only to emergency scenarios regarding distressed REAs, with references to an excerpt from a 1989 academic thesis and Hansard of the Alberta legislature. Fortis disagreed and submitted that BRPC’s interpretation of Section 32 of the HEEA is excessively narrow and inconsistent with past Commission findings.

15. The Commission agrees with Fortis’s characterization. There is nothing in the plain and ordinary meaning of Section 32 of the HEEA to suggest it applies only to emergency scenarios regarding distressed REAs. If an order has been made under Section 29, the legislative requirement for a Section 32 order is that it is in the public interest in the Commission’s opinion. The further legislative requirement for the Commission to include provisions under Section 32(2)(a) is that they are “for the purpose of ensuring the continued distribution of electric energy in the service area or part of it that was served by the [REA].” The Commission does not consider the public interest or the purpose of ensuring the continued distribution of electric energy to be limited to only emergency situations regarding distressed REAs as BRPC argued.

16. Further, the Commission has previously ruled that, even if the Commission’s discretion to determine compensation under Section 29 as compared to Section 32 of the HEEA is in question, the more specific Section 32 overrides the more general Section 29.⁵ When an REA is subject to an order under Section 29 of the HEEA, and Section 32 of the HEEA is engaged, the Commission has found that it has the authority under section 32(2)(b) to determine any compensation payable. This includes what matters are compensable, “and is not bound by a particular methodology regarding valuing the facilities that were ordered transferred. Rather, the legislature has afforded the Commission broad discretion to make that determination based on the specific evidence before it.”⁶

17. In any event, the wording of the provisions related to compensation under sections 29(4) or 32(2) of the HEEA is discretionary. Use of those provisions is dependent on the relevant considerations before the Commission in each proceeding, and subject to the discretion of the Commission. BRPC has not convinced the Commission otherwise.

18. In this proceeding, the relevant considerations are the passing of municipal bylaws or occurrence of other triggers set out in Decision 22164-D01-2018. The alteration of the boundaries of service areas in Proceeding 22164, and those triggering conditions, now require

⁵ Decision 25300-D01-2020: EPCOR Distribution & Transmission Inc., Alterations to Distribution Service Areas and Related Matters, Proceeding 25300, Application 25300-A001, September 24, 2020.

⁶ Decision 26318-D01-2021: EPCOR Distribution & Transmission Inc., Determination of the Compensation Amount, to be Paid by EPCOR to Battle River Cooperative REA Ltd., Proceeding 26318, July 19, 2021, paragraphs 18-24.

that those REA customers receive electrical distribution services from Fortis. BRPC and Fortis have been unable to agree to a compensation amount to facilitate the transfer and Fortis's service of those customers. In the absence of agreement, this requires the transfer of parts of the service area served by BRPC under Section 32(1), and consideration of transfer of facilities associated with the electric distribution system in those parts of the service area, operation of that part of the electric distribution system, and related compensation under Section 32(2).

19. Since the conditions set out in Decision 22164-D01-2018 have been met but the parties have been unable to agree, the Commission considers it is in the public interest to order the transfer of the identified parts of BRPC's service area from BRPC to Fortis under Section 32(1). To ensure the continued distribution of electrical energy in those parts of BRPC's former service area, the Commission includes in its order the transfer of the facilities that serve BRPC's former customers, and the operation of those parts of the electric distribution system, as contemplated in Section 32(2)(a). As the parties were unable to arrive at an agreement concerning compensation for this transfer, the Commission will proceed to determine the appropriate amount of compensation payable under Section 32(2)(b).

3.2 RCN-D valuation methodology

20. Both parties to this proceeding estimated the value of the assets to be transferred from BRPC to Fortis using the RCN-D methodology, which they defined as "replacement cost new less depreciation" (RCN-D) valuation methodology.⁷ Fortis submitted that use of the RCN-D methodology for the purposes of determining compensation pursuant to Section 32 of the HEEA is reasonable as the Commission has consistently held that use of RCN-D is an acceptable valuation for the purchase of an REA or REA assets.⁸ BRPC also used the RCN-D methodology; however it advocated for an introduction of other considerations in addition to the RCN and D components.

21. The RCN-D valuation method using replacement costs has been repeatedly established in prior Commission proceedings concerning REA asset transfers.⁹ The Commission agrees that it is an appropriate valuation methodology for the purposes of this proceeding.

22. Fortis proposed RCN-D compensation in the amount of \$313,971,¹⁰ and BRPC proposed compensation in the amount of \$515,586,¹¹ a difference of \$201,615. The differences in the two estimates submitted by the parties are discussed in detail in Section 4.

23. For the reasons set out in that section, the Commission finds the RCN-D estimate proposed by Fortis to be more reasonable than BRPC's estimate.

⁷ RCN-D can also stand for "reproduction cost new less depreciation" – for example, subsection 29(4) of the HEEA refers to such valuation methodology. In past decisions, the Commission observed that reproduction cost is distinguishable from replacement cost. While not discarding either methodology, the Commission in several decisions found replacement cost new less depreciation to be a reasonable methodology based on the particular facts of the case. In this decision, the RCN-D acronym will mean "replacement cost new less depreciation" consistent with the proposals of the parties.

⁸ Exhibit 28358-X0082, Fortis written argument, PDF page 9, paragraph 19.

⁹ The decision that has been most cited by the parties is Decision 26318-D01-2021, in which the Commission ruled on the compensation payable to BRPC by another distribution utility for an asset transfer from BRPC following a Commission decision that altered service area boundaries.

¹⁰ Exhibit 28358-X0081, Fortis reply evidence, PDF page 4, paragraph 8.

¹¹ Exhibit 28358-X0083, BRPC argument, PDF page 23, paragraph 91.

4 RCN-D inputs

24. In this section, the Commission considers whether the specific calculations and assumptions used to determine the RCN-D amount are reasonable. First the Commission considers the reasonableness of the assumptions used to calculate the replacement cost new (RCN) component, and second, it considers the reasonableness of the depreciation parameters and methodology used to calculate the depreciation (D) component.

4.1 Replacement cost new (RCN)

25. In its reply evidence, Fortis provided its revised RCN calculation of \$781,579 and RCN-D calculation of \$313,971 based on the updated asset list¹² provided by BRPC.

26. Over the course of this proceeding, BRPC and Fortis ultimately agreed on the list of assets to be transferred, with exception of one: service FT804. Fortis submitted that service FT804 should be included in the final asset list to be transferred as the transfer of service results from a member request to transfer services from BRPC to Fortis:¹³

As the member associated with service FT804 has requested the transfer, one of the triggering conditions of Decision 22164-D01-2018 has been met and the service must be transferred. Further, FortisAlberta notes that BRPC has also acknowledged the need to transfer this service as on January 27, 2021, the REA sent FortisAlberta a LPA [Line Purchase Agreement] with respect to service FT804. The LPA provided by BRPC stated: "...service as part of AUC 22164 ruling. Service transfer due to member's request for transfer within the City of Fort Saskatchewan annexed area." The only reason FortisAlberta was unable to execute the LPA and proceed with the transfer of this service was due to the discrepancies between the Company's RCN-D calculation and BRPC's for this site.

27. The Commission determines that service FT804 should be included in the assets to be transferred because the transfer of service provided by this asset results from a member request to transfer services from BRPC to Fortis. This was one of the triggering conditions in Decision 22164-D01-2018.

28. In its reply evidence, Fortis submitted that it utilized its estimating tool to calculate the valuation of BRPC's assets.¹⁴ To calculate its RCN costs, Fortis used the updated asset information provided by BRPC, then compared the assets to its own standard material item list to calculate material costs. Labour and engineering unit costs were obtained using Fortis's estimating tool, which provides estimates for constructing new distribution facilities. Other costs including installation were all based on current construction and engineer standards and the associated labour cost. Fortis submitted the value of assets to be transferred were calculated using a method consistent with the Commission's prior practice in Decision 26318-D01-2021.

29. Fortis submitted that Fortis's costs should be used to determine the RCN-D value:¹⁵

... RCN-D is a valuation methodology based on the theory that the notional value to the purchaser can be determined by looking at what it would cost the *purchaser* to install

¹² Exhibit 28358-X0078, BRPC-FAI-2023NOV15-001(b) – Supplemental Information.

¹³ Exhibit 28358-X0033.01, FAI-BRPC-2023OCT03-001(c), PDF page 3.

¹⁴ Exhibit 28358-X0081, Fortis reply evidence, PDF page 4, paragraph 9.

¹⁵ Exhibit 28358-X0081, Fortis reply evidence, PDF pages 4-5, paragraph 9.

assets of an equivalent functionality, based on an operating assumption that the relevant assets could be replaced in a partially depreciated condition; its formulation is closely related to a public utility's obligation to serve. In the circumstances of this proceeding, FortisAlberta is the purchaser, and it is therefore appropriate to use FortisAlberta's costs to determine the RCN-D value....

30. BRPC revised its RCN-D calculation numerous times throughout the proceeding, lessening the Commission's certainty in BRPC's evaluation of an appropriate transfer value. Specifically, in his evidence filed on behalf of BRPC, Dustin Madsen provided an RCN value of \$808,555 and RCN-D value of \$437,512.¹⁶ These values were further updated to \$841,755 and \$460,085, respectively, after the Commission's IRs.¹⁷ Finally, in argument, BRPC updated its RCN-D value to \$468,715 and then to \$515,586 to include a 10 per cent contingency.¹⁸

31. D. Madsen stated that BRPC's valuation should be accepted because the purpose of this proceeding is to assign a value to BRPC's assets, so the inputs into the valuation should reflect BRPC's costs.¹⁹ In his written evidence, D. Madsen recommended a simplistic fair market value method for the compensation which was based on BRPC's RCN-D including contingency, which is then subject to a 1.5x to 3.0x multiplier.²⁰ The Commission is unclear on whether BRPC is supporting D. Madsen's recommended fair value method or if it has chosen the base RCN-D plus 10 per cent contingency valuation method, as the fair market value method was not included in either BRPC or Fortis's final arguments.²¹ In BRPC's final argument, it noted that its RCN-D calculation should be used for compensation, and discussed specific assumptions and inputs used in the RCN-D calculations, such as external or internal labour, urban or rural costs, contingency costs, land rights and depreciation.²²

32. The Commission considers Fortis's RCN calculation of \$781,579 and RCN-D calculation of \$313,971 to be more reasonable than BRPC's estimates provided in this proceeding. Fortis's evaluation included a comprehensive on-site assessment of BRPC's assets to be transferred, and the application of Fortis's internal estimating tool that has been previously approved by the Commission in other proceedings. As also described in the sections 4.1.1 to 4.1.4 that follow, the Commission is not persuaded by BRPC's arguments regarding specific assumptions or provisions incorporated in the RCN-D valuation.

33. The Commission has less confidence in BRPC's RCN-D valuation. As mentioned earlier in this section, BRPC revised its RCN-D calculation numerous times throughout the proceeding. There are at least three different RCN and RCN-D values on the record of this proceeding provided in BRPC's submissions, and the estimates vary by as much as \$34,323 or seven per cent.²³ In contrast, Fortis's methodology and assumptions remained unchanged, and its RCN-D value was only updated once, based on the BRPC-provided finalized list of assets to be transferred.

¹⁶ Exhibit 28358-X0036, Appendix A – RCN-D Calculation Redacted, Summary tab.

¹⁷ Exhibit 28358-X0071, BRPC-AUC-2023NOV15-001, Attachment 1 – Redacted, Summary tab.

¹⁸ Exhibit 28358-X0083, BRPC argument, PDF page 5, paragraphs 11 and 13.

¹⁹ Exhibit 28358-X0037, BRPC written evidence, PDF page 5, lines 19-21, PDF page 15, lines 2-7.

²⁰ Exhibit 28358-X0037, BRPC written evidence, PDF page 37.

²¹ Exhibit 28358-X0085, Fortis reply argument, PDF page 3, paragraph 2.

²² Exhibit 28358-X0083, BRPC argument, paragraphs 62-89.

²³ BRPC's final valuation of \$515,586 compared to its initial RCN-D valuation of \$481,263 (\$437,512 plus 10 per cent contingency).

34. Further, accepting the submissions made by BRPC would require the Commission to depart from past practice in REA transfer compensation assessments by injecting other factors to the calculation such as added contingencies.²⁴ Such a departure requires compelling supporting rationale. The Commission considers that the inputs and assumptions for the BRPC calculations lack the detail of the Fortis analysis, and do not represent costs that would normally be incurred by other distribution utilities. Further, the Commission finds that the 10 per cent contingency proposed by BRPC lacks compelling support. The various input assumptions are discussed below.

4.1.1 External or internal labour

35. Submissions on the question of costing based on external or internal labour have a common base question: whose replacement/reproduction costs are appropriate to use in this calculation? The Commission does not consider that in any case, the costs advanced by the utility from which facilities are transferred or the utility to which facilities are transferred must always be appropriate. The most appropriate costs are determined based on the evidence before the Commission, and the supporting rationale of the parties.

36. BRPC argues that this valuation should be based on the cost to BRPC to replace the assets being considered.²⁵ BRPC stated that its model is built on the use of external labour to construct assets with appropriate use of internal labour, contrasted with Fortis's calculation using only internal labour costs.²⁶ In his evidence for BRPC, D. Madsen stated external labour is necessary when large numbers of assets are replaced at the same time, and internal labour is used on small scale projects. He also confirmed that BRPC's RCN is higher than Fortis's calculation as BRPC would need external resources to complete the same projects, whereas Fortis could rely on internal labour to complete the same project.

37. Fortis submitted that external labour is unnecessary when internal labour resources are available, and the site conditions do not require external labour.

38. The Commission finds that Fortis's estimation approach, which relied primarily on internal labour costs, is most reasonable and prudent for use in this proceeding than the RCN costs based on BRPC costs for the facilities. First, it is not clear to the Commission that the magnitude of the replacement warrants the attraction of external labour by BRPC which would result in higher labour costs. Second, if Fortis has the economic scale of completing a construction project (such as replacing the assets under consideration) at a lower cost than BRPC, absent a convincing argument from BRPC otherwise, the Commission considers it is reasonable to accept Fortis's proposal as Fortis could complete the project (i.e., replace the assets under consideration with newer ones if need be) at lower labour cost compared to BRPC. The Commission finds no reasonable basis on which to accept BRPC's higher labour cost and pass that cost onto customers.

4.1.2 Urban versus rural

39. In argument, BRPC submitted that BRPC is more experienced than Fortis in estimating rural RCN costs for the assets to be transferred. BRPC also stated that as an REA, it is more

²⁴ Exhibit 28358-X0082, Fortis written argument, PDF pages 9-10, paragraph 19 summarizes recent decisions.

²⁵ Exhibit 28358-X0083, BRPC argument, PDF page 17, paragraphs 62-65.

familiar with the assets to be transferred and the associated cost to replace those assets.²⁷ In its reply argument, Fortis argued that it is well positioned to determine the cost of constructing rural assets as Fortis's assets have historically been and continue to be in service of customers in rural areas.²⁸ Fortis confirmed that, on average, approximately 85 per cent of its poles and conductors and 75 per cent of its transformers serve rural customers.²⁹

40. The Commission agrees that Fortis is well positioned to determine the cost of constructing rural assets given its experience in rural locations. Further, the Commission is not persuaded that the sites of the assets to be transferred are so unique that the cost to construct the assets cannot be compared to that of similar assets in similar rural locations. BRPC has not convinced the Commission to prefer its higher cost assumptions for rural construction.

4.1.3 Contingency

41. D. Madsen, on behalf of BRPC, suggested a contingency of 10 per cent be added to BRPC's RCN-D valuation. In argument, BRPC stated that it did not have a contingency built into its base material and labour costs and recommended a further 10 per cent contingency be added to its RCN-D valuation. BRPC further provided examples of valuations in past proceedings for various transmission, generation and other utility companies that have been approved by the Commission where a contingency has been included.³⁰

42. In its reply argument, Fortis stated that BRPC's supporting examples of utilities are not comparable to BRPC REA assets³¹ as the cost and risks of construction of those types of assets are different from the construction of distribution assets such as those that are the subject of this proceeding:³²

28. ... Construction of these types of assets is not analogous to construction of distribution assets such as those that are the subject of this proceeding and therefore should not be relied upon by the Commission to support BRPC's 10 per cent contingency adder. The Commission has previously rejected a comparison of contingency rates in transmission-related applications because distribution facility construction risks are different from transmission facility construction risks.... [footnote deleted]

43. Furthermore, Fortis confirmed that a contingency rate is already included in Fortis's RCN calculation.³³

44. The Commission accepts Fortis's assertion that contingency is built into Fortis's estimating tool in which the compatible units and associated labour costs are based on construction and procurement actuals. The Commission finds Fortis's approach aligns with distribution standards and is not convinced by D. Madsen's evidence to support BRPC's 10 per cent contingency rate. The Commission further agrees with Fortis that examples provided by D. Madsen are not comparable to the assets at issue in this proceeding.

²⁷ Exhibit 28358-X0083, BRPC argument, PDF page 18, paragraphs 68-69.

²⁸ Exhibit 28358-X0085, Fortis reply argument, PDF page 11, paragraph 26.

²⁹ Exhibit 28358-X0081, Fortis reply evidence, PDF page 5, paragraph 10.

³⁰ Exhibit 28358-X0083, BRPC argument, PDF pages 19-20, paragraphs 73-75.

³¹ Exhibit 28358-X0080, Appendix A – Redacted, tabs Poles, Transformers, Conductors, Structures.

³² Exhibit 28358-X0085, Fortis reply argument, PDF pages 11-12, paragraph 28.

³³ Exhibit 28358-X0081, Fortis reply evidence, PDF page 6, paragraph 11; Exhibit 28358-X0085, Fortis reply argument, PDF page 11, paragraph 27

45. BRPC also argued that adding 10 per cent contingency will account for other factors such as fair market value and intangible land rights. As discussed throughout this decision, the Commission concludes there is no compelling basis to make such additions to the usual method of valuation.

4.1.4 Land rights

46. On behalf of BRPC, D. Madsen stated that BRPC and its members maintain a different relationship which does not result in land rights payments to its members, and BRPC should be compensated for the intangible benefits that it will lose because of the transfer.³⁴ D. Madsen further stated that a 10 per cent contingency would include consideration of those intangible land rights benefits. In argument, BRPC submitted that “[in] any other circumstances, a regulated utility, such as Fortis, would have been required to secure land rights and pay market rates to the landowners.”³⁵ BRPC stated that Fortis agreed to pay compensation for similar land rights of Kingman and VNM REAs, with reference to previous proceedings where the Commission approved REAs’ requests to discontinue their operations and transfer all assets to Fortis. However, BRPC further stated that it is “willing to accept” its base RCN-D estimate of \$515,586, which includes a 10 per cent contingency, without being additionally compensated for the incremental land rights benefits.³⁶

47. In its reply evidence, Fortis stated it would not incur any cost for land rights when accessing or constructing service taps that exclusively serve a customer on that customer’s property. Fortis’s Customer Terms and Conditions of Electric Distribution Service grant it an easement at no cost over the customer’s land. In argument, Fortis submitted that if the Commission were to accept BRPC’s RCN-D valuation calculations, “there is no need to provide additional compensation for land rights as BRPC would not incur costs for land rights when it constructs” the REA assets.³⁷

48. It is unclear on the record of this proceeding whether the assets requested to be transferred solely include service taps that exclusively serve a customer on that customer’s property. While BRPC refers to “main line” assets in its submissions, those assets are not identified or their characterization explained. In expert evidence submitted by D. Madsen on behalf of BRPC, he stated the transfer involves customer-specific assets:³⁸

I note that the assets subject to the current application are all customer specific assets, with no or limited main line assets being transferred to Fortis.

49. It is also unclear whether BRPC seeks additional compensation for intangible land rights benefits independent from its proposed 10 per cent contingency, or at all.³⁹ The Commission finds that in these circumstances, land rights costs are speculative and imprudent and should not

³⁴ Exhibit 28358-X0037, BRPC written evidence, PDF page 12.

³⁵ Exhibit 28358-X0083, BRPC argument, PDF page 21, paragraph 78.

³⁶ Exhibit 28358-X0083, BRPC argument, PDF page 21, paragraph 79.

³⁷ Exhibit 28358-X0082, Fortis written argument, PDF page 14, paragraph 32.

³⁸ Exhibit 28358-X0037, BRPC written evidence, page 28.

³⁹ BRPC submits that it is entitled to such compensation for the transferred distribution assets, including any mainline assets. Notwithstanding, as stated above, BRPC is willing to accept its base RCN-D estimate of \$515,586.11, absent inclusion of incremental land right costs in order to efficiently resolve this matter.

be included in the RCN-D valuation and the compensation amount determined by the Commission. The evidence of the parties is that neither would incur costs for land rights.⁴⁰

50. Compensation for **intangible** land rights is an additional new basis for adjustments to the RCN-D compensation estimation, and the valuation of those intangible rights was not quantified beyond BRPC's assertion the 10 per cent contingency would be sufficient to cover those intangibles. Decision 21768-D01-2017⁴¹ was referenced by BRPC as a situation where Fortis agreed to pay land access rights compensation. That proceeding was a review of two earlier proceedings where the Kingman and VNM REAs applied for approval to cease and discontinue operation in total, with all assets sold and transferred. Fortis conducted an estimation for the value of private land impacted by line installation and provided a dollar value for each REA based on length of primary lines.

51. While that proceeding demonstrates a value being paid for land rights, what distinguishes it from the present proceeding is those land rights were quantified and costed based on the fact scenario for each REA. That is, the length of primary overhead and underground facilities were totaled and a notional value assigned based on an assumption those primary facilities were installed on private lands. In this proceeding, BRPC has provided no such quantitative basis for the payment of compensation beyond asserting that a 10 per cent contingency would suffice. Section 32(2)(b) provides broad discretion to the Commission to decide matters in respect of which compensation is payable. The Commission considers the BRPC qualitative and somewhat speculative basis for compensation for intangible land rights is insufficient to support the payment of additional compensation for this transfer.

4.2 Depreciation (D)

52. Regarding the depreciation (D) component within the RCN-D methodology, Fortis explained that BRPC provided asset vintage information only for poles covered by the line purchase agreements. Fortis used this information to determine the accumulated depreciation for these pole types. For the remaining assets, Fortis arrived at the vintage assumptions using the method employed by EPCOR in Proceeding 26318; Fortis estimated the age of assets based on the known age of poles, as explained in further detail below.

53. Specifically, in the case of BRPC's aerial distribution transformers, Fortis determined the age of the aerial transformer by referencing the vintage of the distribution pole on which it is installed. If the pole was older than 35 years, Fortis assumed that the aerial transformer would have been replaced. As such, for poles older than 35 years, Fortis assumed an aerial transformer age equal to the age of the pole less 35 years.⁴² Similarly, for aerial conductors, Fortis used the vintage of the distribution poles supporting the conductors to assign an age. In instances where the ages of poles in a service tap varied, Fortis assigned the age of the conductor to be consistent with the age of the pole on which the service transformer is mounted. With respect to lines that encompassed poles with different vintages, Fortis estimated the associated aerial conductor vintage by calculating the average age of the installed poles within each line segment. Fortis

⁴⁰ Prudent cost definition: In summary a utility will be found prudent if it exercises good judgment and makes decisions that are reasonable at the time they are made, based on information the owner of the utility knew or ought to have known at the time the decision was made. In making decisions, a utility must take into account the best interests of its customers, while still being entitled to a fair return.

⁴¹ Decision 21768-D01-2017: Office of the Utilities Consumer Advocate, Commission-Initiated Review and Variance of Decision 20552-D01-2015 and Decision 20733-D01-2015, Proceeding 21768, October 3, 2017.

⁴² Exhibit 28358-X0001, application, paragraph 23.

observed that BRPC did not contest these assumptions. Following this methodology, Fortis calculated an overall depreciation value of \$467,608.

54. BRPC asserted that for an accurate calculation of the depreciation component, the depreciation parameters should align with the rural nature of the assets in question, the operating and replacement conditions inherent in BRPC's system, and depreciation practices employed by comparable peers supported with recently completed depreciation studies. BRPC's approach leaned towards relying on significantly longer average service lives for its assets, particularly poles and conductors: 60 years compared to the proposed 48 years by Fortis. BRPC explained that it employed a back-end loaded depreciation approach, in contrast to the front-end loaded approach implemented by Fortis. BRPC categorized its method as an average life group procedure, differing from Fortis's equal life group method. BRPC's methodology yielded an overall depreciation value of \$381,669⁴³ based on a depreciation study conducted by BRPC's consultant, which was not filed on the record of this proceeding.⁴⁴

55. The table below illustrates the depreciation amounts by asset class under the transaction for each party.

Table 1. Depreciation components proposed by Fortis and BRPC

Asset description	Fortis	BRPC
	(\$)	
Poles	108,029	79,783
Structures	260,358	197,386
Transformers	43,027	26,397
Overhead conductor	56,193	78,104
Total	467,608	381,669

Source: Exhibits 28358-X0080 and 28358-X0075.

56. The Commission has reviewed the approaches and methodologies presented by Fortis and BRPC. After thorough consideration and for the reasons below, the Commission determines that the D component calculated by Fortis at \$467,608 is a more reasonable representation of depreciation in the compensation amount to be paid by Fortis to BRPC for this proceeding.

57. At the outset, the Commission notes that it lacks any reasonable basis to evaluate the reasonableness of BRPC's depreciation amount, given the absence of its depreciation study from the record of this proceeding. The resulting depreciation parameters have neither been tested nor previously approved by the Commission.

58. On this point, the Commission is not persuaded by BRPC's argument that Fortis is at fault for not requesting BRPC to produce the depreciation study during the information request (IR) stage or through a motion for further and better IR responses. BRPC regularly appears before the Commission. The Commission considers BRPC to be a sophisticated party and expects BRPC to know that it should support its arguments with evidence filed on the record of the proceeding, especially in light of BRPC's consultant's confirmation that his findings in this proceeding benefited from the depreciation study he conducted.⁴⁵ The filing of the depreciation

⁴³ Total RCN-D amount of \$460,085.45 (comprising \$381,669.44 for D component and \$841,754.89 for RCN component) was subsequently updated by BRPC in its argument submission to \$468,714.64, plus a 10 per cent contingency payment of \$46,871.47.

⁴⁴ Exhibit 28358-X0074, BRPC-FAI-2023NOV15-004(b).

⁴⁵ Exhibit 28358-X0086, BRPC reply argument, paragraph 36.

study in support of the D component would have greatly assisted the Commission in understanding the appropriateness of BRPC's depreciation parameters. It is contingent on BRPC in seeking to challenge Fortis's valuations to make its best case possible, including submitting all relevant documentation as a part of its materials.

59. Moreover, the Commission rejects BRPC's assertion that Fortis has not submitted a depreciation study to substantiate its rates and depreciation parameters, and notes that Fortis expressly stated in its application that it adhered to the Commission-approved method of depreciation per Decision 2012-108.⁴⁶ Although it acknowledges the time elapsed since Fortis conducted its last depreciation study, the Commission considers that a dated comprehensive depreciation study presented by Fortis is preferable to no depreciation study at all. Further, as the Commission stated in Decision 3220-D01-2015, "However, even when new depreciation studies are performed, it is not certain that significant changes in depreciation rates will result."⁴⁷

60. With regard to the asset mixture, Fortis's depreciation study encompasses a large percentage of rural assets akin to those under consideration for transfer from BRPC to Fortis in this proceeding. The Commission found in Section 4.1.2 that Fortis's experience with utility installations in rural locations adequately positions Fortis to determine the cost of constructing rural assets. Consequently, the Commission deems it unreasonable to dismiss Fortis's utilization of its depreciation parameters based on the inclusion of a small proportion of urban assets in its study. Fortis has confirmed that, on average, around 85 per cent of its poles and conductors and 75 per cent of its transformers, cater to rural customers. Notably, the composition of assets being transferred is not unique to BRPC. Fortis also manages poles, structures, transformers and overhead conductors, while providing power service.

61. The Commission also finds that BRPC did not adequately substantiate its recommendation for adopting the average life group method instead of the equal life group methodology. BRPC's assertions that the equal life group procedure is seldom used in practice among North American electric distribution utilities, and that the average life group procedure better suits BRPC's operational characteristics, lack sufficient support for the Commission to evaluate the merits of the proposed methodology compared to the previously approved and employed one.

62. Additionally, the Commission observes that BRPC's operational practice of relying on significantly longer average service lives for its assets may be a result of capital constraints, as noted by BRPC's consultant, rather than an inherently superior practice to the that employed by Fortis:⁴⁸

Indeed, **due to limited available capital and the funding of capital programs** through current distribution rates rather than through debt, **BRPC is strongly incented to only retire assets when the risk of failure is high.** For this reason, many poles on BRPC's system continue as the original legacy poles installed by the original rural electrification associations (REAs) that formed BRPC with some poles exceeding 70 years in age.
[emphasis added]

⁴⁶ Decision 2012-108: FortisAlberta Inc., Application for Approval of a Negotiated Settlement Agreement in respect of 2012 Phase I Distribution Tariff Application, Proceeding 1147, Application 1607159, April 18, 2012.

⁴⁷ Decision 3220-D01-2015: FortisAlberta Inc., 2013-2015 PBR Capital Tracker Application, Proceeding 3220, Application 1610570-1, March 5, 2015, paragraph 401.

⁴⁸ Exhibit 28358-X0037, D. Madsen evidence, PDF page 24.

63. The Commission notes that BRPC's consultant faced challenges in acquiring asset retirement data and was only able to secure information spanning a period of 12 years, despite BRPC's extensive operational history:⁴⁹

As part of my work, I reviewed BRPC's historical retirement data and conducted an actuarial analysis of that data. **Unfortunately, the historical data, while robust, was over a limited period of time.** While it was sufficient to allow me to simulate historical retirement data for BRPC it was insufficient for me to derive clear conclusions on how the historical retirement data compared visually and mathematically to selected survivor curves. Nevertheless, the limited retirement data I did review (**from 2009 to 2021**), did provide for an observable trend. [emphasis added]

64. To support the assertion that only a limited number of interim retirements occur over time, BRPC's consultant provided notes summarizing conversations with BRPC management. However, no official company policy or any other similar documentation for asset retirement practices was submitted on the record of this proceeding.

65. Given the above, the Commission is unable to conclude that the D component proposed by BRPC serves as a satisfactory alternative to that presented by Fortis.

5 Order

66. It is hereby ordered that:

- (1) The parts of the service area served by Battle River Power Coop REA Ltd. and altered by Decision 22164-D01-2018 associated with the facilities identified in [Appendix 2](#)⁵⁰ where Battle River Power Coop REA Ltd. continues to operate its electric distribution system are transferred to FortisAlberta Inc.
- (2) Battle River Power Cooperative REA Ltd. shall transfer the electric distribution system facilities identified in Appendix 2 and the operation of those parts of the electric distribution system served by Battle River Power Coop REA Ltd. to FortisAlberta Inc. no later than 90 days after the issuance of this decision.
- (3) FortisAlberta Inc. shall pay Battle River Power Coop REA Ltd. compensation in the amount of \$313,971 in respect of the transfer of the electric distribution system facilities identified in Appendix 2 from Battle River Cooperative REA Ltd. to FortisAlberta Inc. no later than 30 days after the issuance of this decision.

Dated on March 14, 2024.

⁴⁹ Exhibit 28358-X0037, D. Madsen evidence, PDF page 24.

⁵⁰ Exhibit 28358-X0078, BRPC-FAI-2023NOV15-001 - Supplemental Information, add FT804.

Alberta Utilities Commission

(original signed by)

Matthew Oliver, CD
Commission Member

Appendix 1 – Proceeding participants

Name of organization (abbreviation) Company name of counsel or representative
FortisAlberta Inc. (Fortis or FAI)
Battle River Power Coop REA Ltd. (BRPC) CITO Energy Law LLP Dustin Madsen

Alberta Utilities Commission
Commission panel M. Oliver, CD, Commission Member
Commission staff L. Mosher (Commission counsel) V. Wang A. Jukov C. Young

Appendix 2 – Asset list

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Facility	Number of poles	Line length (metres)*	Transformer data
BM142	7	682	10 kVA
BM144	3	183	10 kVA
BM268	2	70	10 kVA
BM458	1	154	10 kVA
BM521	1	70	25 kVA
CC83	6	443	10 kVA
CJ180	10	1,078	no transformer
CJ183	13	1,603	no transformer
CJ184	5	602	15 kVA
CJ224	3	163	10 kVA
CJ228	3	203	10 kVA
CJ229	3	256	10 kVA
CJ26	2	86	10 kVA
CJ400	4	234	10 kVA
CW120	1	72	10 kVA
CW52	1	32	10 kVA
EK123	9	778	no transformer
EK125	1	20	10 kVA
EK126	11	1,110	no transformer
EK127	2	84	10 kVA
EK145	7	703	10 kVA
EK146	2	99	10 kVA
EK154	2	129	10 kVA
EK167	6	516	10 kVA
EK170	5	406	10 kVA
EK171	2	111	10 kVA
EK174	7	726	10 kVA
FR403	3	213	10 kVA
FR70A	2	128	10 kVA
FR70B	6	407	10 kVA
FT239	3	164	10 kVA
HA613/668	12	1,072	no transformer
HD114A	2	118	10 kVA
HD520	4	364	10 kVA
LW128	3	207	10 kVA
LW129	3	153	7.5 kVA
LW181	2	83	50 kVA
LW279	3	190	15 kVA

Facility	Number of poles	Line length (metres)*	Transformer data
NL334A	3	203	10 kVA
NL338	2	125	no transformer
NL388	2	116	10 kVA
NL393	2	53	10 kVA
WJ140A	1	42	10 kVA
WJ154	1	84	10 kVA
WJ312A	1	112	10 kVA
FT804	1	26	10 kVA**

*Linear length of tap

Source: Exhibit 28358-X0078, BRPC-FAI-2023NOV15-001(b)_Supplemental Information.

**Source: Exhibit 28358-X0033.01, FAI-BRPC-2023OCT03-001(c), PDF page 3.