



Western Alberta Transmission Line

Errata to Advance Funding Decision dated July 26, 2011

July 28, 2011



The Alberta Utilities Commission

Decision 2011-320 (Errata): Western Alberta Transmission Line
Advance Funding
Application No. 1607067
Proceeding ID No. 1045

July 28, 2011

Published by

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1 Introduction

1. On July 26, 2011, the Alberta Utilities Commission (the AUC or the Commission) issued Decision 2011-320, Advance Funding for the Western Alberta Transmission Line proceeding.
2. Part 4, paragraph 30 (3), contained an error in the amount awarded for intervener costs to the West to East Alternate Route Protestors stating that the amount awarded was \$208,112. The amount awarded should be \$214,692 as determined from the amounts awarded in the decision and calculated in Appendix A.
3. Section 48 of the Commission’s Rule 001: *Rules of Practice* indicates that “[t]he Commission may correct typographical errors, errors of calculation and similar errors made in any of its orders, decisions or directions.” Accordingly, this Errata Decision is issued to correct the error.
4. Paragraph 30 (3) of Decision 2011-320 has been amended to include the correct amount of advance funding and is attached to this Decision 2011-320 (Errata).

Dated on July 28, 2011.

The Alberta Utilities Commission

(original signed by)

Willie Grieve
Chair

(original signed by)

Kay Holgate
Commission Member

(original signed by)

Pat Brennan
Commission Member



AUC

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1 Introduction

1. AltaLink L.P. (AltaLink) filed an application with the Alberta Utilities Commission (AUC or the Commission) on March 1, 2011, requesting approval to construct and operate the Western Alberta Transmission Line (WATL) project. The project consists of four main components, namely:

- Construction of a 500-kilovolt (kV) alternating current (AC)/500-kV direct current (DC) Sunnybrook 510S substation, which would contain the north converter station, to be located in the southwest quarter of Section 36, Township 50, Range 3, west of the Fifth Meridian and in the northwest quarter of Section 25, Township 50, Range 3, west of the Fifth Meridian.
- Construction of a 240-kV AC/500-kV DC Crossings 511S substation, which would contain the south converter station, to be located in the northwest quarter of Section 16, Township 23, Range 27, west of the Fourth Meridian.
- Construction of a 500-kV DC transmission line 1325L connecting the proposed Sunnybrook 510S substation to the proposed Crossings 511S substation.
- Construction of a 500-kV AC Bennett 520S substation to be located in the southwest quarter of Section 16, Township 23, Range 27, west of the Fourth Meridian.

2. The application identifies the proposed Sunnybrook 510S substation, Crossings 511S substation, Bennett 520S substation and a preferred route and an alternate route for a proposed 500-kV DC transmission line 1325L, along with several local route options for both the preferred and alternate routes. The application further identifies two proposed 500-kV AC transmission lines 1238L and 1239L from the proposed Sunnybrook 510S substation to the existing Genesee E330P substation and proposed alterations to associated existing substations and transmission lines.

3. The Bennett 520S substation would not be required if the Langdon route option is approved. The Crossings 511S substation would be located in the southwest quarter of Section 16, Township 23, Range 27, west of the Fourth Meridian under this option.

4. On April 20, 2011, the Commission held a process meeting at Westerner Park in Red Deer, Alberta before a Commission Panel comprised of Willie Grieve (Chair) and Commission Member Neil Jamieson.

5. On May 5, 2011, the Commission issued Decision [2011-198](#)¹ with respect to the process meeting. In that decision and a further standing ruling dated June 21, 2011, the Commission found that Municipal Counsellors, the WATL Midway Group and the West to East Alternate Route Protestors (referred to in Decision 2011-198 as the R. Secord Group) are groups with members that have standing in this proceeding pursuant to Section 9 of the *Alberta Utilities Commission Act*.

2 Advance funding request

6. On June 10, 2011, Municipal Counsellors filed a request for advance funding. Macpherson Leslie Tyerman LLP also filed a request for advance funding on June 10, 2011, on behalf of its client, the WATL Midway Group (WMG). On July 11, 2011, Ackroyd LLP filed a request for advance funding on behalf of its client, the West to East Alternate Route Protestors (WEAP).

7. Municipal Counsellors, represented by Mr. Hugh Ham, represents a total of 17 landowners. Mr. Ham filed a request for advance funding on behalf of this group.

8. The WMG is composed of landowners that own a total of eight quarter sections of land that may be directly and adversely affected by the Commission's decision on the WATL application. It is represented by Mr. John Gruber and Mr. Henry Chan of MacPherson Leslie Tyerman LLP.

9. The WEAP group is composed of 28 landowners and is represented by Mr. Richard Secord and Ms. Debbie Bishop of Ackroyd LLP.

10. Municipal Counsellors, Ackroyd LLP and MacPherson Leslie Tyerman LLP have jointly retained two experts to address issues relevant to the proceeding. The table below summarizes the estimated costs for these two experts.

Expert	Issues	Budget
Berrien Consulting Ltd.	Routing and Site Selection	\$150,150
Cottonwood Consultants Ltd.	Biodiversity Assessment	\$39,165

11. WEAP has also proposed to retain three additional experts. Mr. Andrew Jones, an electrical engineer, Mr. Brian Gettel to conduct an appraisal of the Lost Lake Ranch lands, and Mr. Chris Perret from the firm Meyers, Norris, Penny to evaluate economic losses that may be incurred by a dairy farm in the area. The table below summarizes the estimated costs for these three experts.

¹ Decision 2011-198: AltaLink Management Ltd. Western Alberta Transmission Line Project – Process Meeting, Application No. 1607067, Proceeding ID No. 1045, May 5, 2011.

Expert	Issues	Budget
Andrew Jones (engineer)	Construction, engineering and operation of proposed transmission line	\$43,785
Brian Gettel	Lost Lake Ranch lands appraisal	\$12,316
Mr. Perret (Meyers Norris Penney)	Evaluation of dairy farm business	\$41,591

12. Municipal Counsellors estimated that its legal fees for the proceeding would be \$217,721. WMG estimated that its legal fees for the proceeding would be \$155,700 and the WEAP group estimated that its legal fees would be \$321,406. In support of their budgets for legal fees, the WEAP group cited a cost order of the Alberta Environmental Appeals Board which stated that one hour of hearing time can require up to ten hours of preparation time. It further submitted that it estimated the WATL hearing would be approximately three weeks in length and require 120 hours of hearing time and calculated preparation hours accordingly. The following table summarizes the budget for legal fees submitted by Municipal Counsellors, the WMG and WEAP:

Lawyer	Budget
Hugh Ham (Municipal Counsellors)	\$217,721
Richard Secord (WEAP)	\$164,500
Debbie Bishop (WEAP)	\$131,600
John Gruber (WMG)	\$98,000
Henry Chan (WMG)	\$52,800
Nichole Deschaine (Articling student WMG)	\$4,900

13. In its submission, Berrien initially requested the Commission to award each group its respective pro rata share of the estimated expert costs that were jointly retained by the three groups. However, these interveners later confirmed that the Commission could award the advance funding to Mr. Richard Secord of Ackroyd LLP for distribution among the intervener groups.

3 Commission ruling

3.1 Qualifications for local intervener costs

14. Section 22 of the *Alberta Utilities Commission Act* provides that the Commission may award costs to persons or groups of persons that meet the definition of “local intervener”. That provision reads in part as follows:

22(1) For purposes of this section, “local intervener” means a person or group or association of persons who, in the opinion of the Commission,

(a) has an interest in, and

(b) is in actual occupation of or is entitled to occupy land that is or may be directly and adversely affected by a decision or order of the Commission in or as a result of a hearing or other proceeding of the Commission on an application to construct or operate a ... transmission line under the *Hydro and Electric Energy Act*...

15. In Decision 2011-198 and the Commission's additional standing ruling issued June 21, 2011, the Commission found that Municipal Counsellors, the WMG and WEAP have members who own or reside upon lands that are within 800 meters of the edge of the right-of-way of either the preferred or alternate routes for the WATL project. The Commission finds that those persons have demonstrated that they have interests in land that is or may be affected by the Commission's decision on the WATL application and are local interveners as that term is defined in Section 22(1) of the *Alberta Utilities Commission Act*. Accordingly, these three groups qualify to claim local intervener costs on behalf of their respective members who own or reside upon lands within 800 metres of a right-of-way proposed in the WATL application.

3.2 Advance funding award

16. Section 2 of AUC Rule 009: *Rules on Local Intervener Costs*, as quoted below, provides that the Commission may make an award of advance funding upon the request of a local intervener. Section 2 states:

2(1) A local intervener who intends to take part in a hearing or other proceeding may, at any time during the hearing or other proceeding, make a request to the Commission for an advance of funds in accordance with the scale of costs set out in appendix A and submit a budget in accordance with Appendix A.

(2) The Commission may award an advance of funds to a local intervener if the local intervener demonstrates a need for financial assistance to address relevant issues in the hearing or other proceeding.

(3) If the Commission awards an advance of funds to a local intervener under subsection (2), the Commission may

(a) advance the funds to the local intervener and

(i) set out the terms for repayment of the advance to the Commission by the local intervener, or

(ii) direct the applicant to reimburse the Commission for the funds advanced to the local intervener,

or

(b) direct the applicant to advance funds to the local intervener and set out the terms for repayment of the advance to the applicant by the intervener.

17. In their June 10, 2011, advance funding requests, Municipal Counsellors and the WMG explained their need for financial assistance. In its advance funding request of July 11, 2011, WEAP also explained its need for financial assistance. WEAP submitted that there is a need for advance costs as final cost awards will not be granted until well into the year 2012 after the release of the decision on this application. The parties also submitted that they would not be able to address the issues in this application without the assistance of experts and legal counsel, therefore, they required advance funding. Based on their submissions, the Commission is satisfied that Municipal Counsellors, the WMG and WEAP have each demonstrated a need for financial assistance and qualify for advance funding.

18. The Commission finds that the issues that the two jointly retained experts as well as the three experts retained by WEAP, intend to address are relevant to the WATL application.
19. Historically, the Commission, and its predecessor, the Alberta Energy and Utilities Board have awarded between 30 and 50 per cent of an intervener's projected costs as advance funding.
20. The Commission has reviewed the budgets of Myers, Norris, Penny, Mr. Andrew Jones and Mr. Gettel and considers that these budgets appear to overestimate the number of hours required seeing the scope of work described. Therefore, the Commission awards advance funding for each of these experts of approximately 30 per cent of the budgeted costs. The advance funding awarded for each of these experts is summarized in Appendix A.
21. Mr. Cliff Wallis of Cottonwood Consultants Ltd. (Cottonwood) estimated that he would spend approximately 80 hours on field surveys, document review and evidence preparation prior to the hearing. Cottonwood estimated a further 50 hours would be required for hearing preparation and attendance. The Commission notes that Cottonwood's estimated expenses in the recent Heartland proceeding were \$20,250 as opposed to \$39,165 in this proceeding. The Commission is not convinced that this proceeding will require significantly more time and preparation than the Heartland proceeding. Additionally, more than 300 landowners were represented in the groups that retained Cottonwood in the Heartland proceeding as opposed to approximately 50 landowners being represented to date in this proceeding. Having regard to the foregoing, the Commission awards advance funding of 30 per cent of the budgeted amount to Cottonwood.
22. Berrien Consulting Ltd. (Berrien) estimated that it would spend approximately 496 hours preparing for and attending the hearing. The Commission notes that Berrien has prepared its submission to reflect the Commission's views expressed in Decision 2011-002. As such, the Commission is prepared to award advance funding to Berrien in the amount of \$70,000 which is close to 50 per cent of the budgeted amount.
23. The Commission acknowledges that Municipal Counsellors represents 17 landowners and recognizes that the coordination of this intervention takes considerable preparation, time and effort. However, the Commission has reviewed the projected legal fees for the group of landowners represented by Mr. Ham and considers that Mr. Ham may have overestimated the amount of preparation and attendance time required for the hearing. The Commission notes the following in this regard:
- While the hearing may take three weeks, there will be periods during the hearing when the group of landowners represented by Mr. Ham will not be actively involved, i.e. when other interveners are giving evidence on issues that the group does not take issue with. In the Commission's view, it is unlikely that any preparation time will be required for these parts of the hearing.
 - Municipal Counsellors has retained only two experts, both of which are jointly retained with the WMG and WEAP.
 - Municipal Counsellors represents 17 landowners which is a comparatively small intervener group in relation to other proceedings such as the Heartland proceeding.
24. Taking into account the foregoing, the Commission considers that advance funding of approximately 35 per cent of the legal fees projected by Municipal Counsellors for the group of

landowners it represents is appropriate. The advance funding of Cottonwood, Berrien and Municipal Counsellors are summarized in Appendix A.

25. The Commission also acknowledges that the WMG represents at least six landowners who own a total of 13 quarter sections of land that may be affected by the WATL application. The Commission considers the budget submitted for legal fees by the WMG to be reasonable and is prepared to award advanced funding for legal fees in the amount of \$70,065, being approximately 45 per cent of the total legal budget submitted by the WMG.

26. Lastly, the Commission notes that the WEAP group currently represents at least 28 landowners and recognizes the coordination as well as preparation time and effort that will be required to represent these landowners in the WATL application. However, the Commission has reviewed the projected legal fees for the WEAP group and considers that Ackroyd LLP may have overestimated the amount of preparation and attendance time required for the WATL hearing. The Commission specifically notes the following in this regard:

- While the hearing may take three weeks, there will be periods during the hearing when the WEAP group will not be actively involved. The Commission is of the view that it is unlikely any preparation time will be required for these parts of the hearing.
- The WEAP group has retained five experts, two of which have been jointly retained with Municipal Counsellors and the WMG and will likely explore similar issues amongst all three groups.
- There may be days where WEAP can be represented at the hearing by only one lawyer.

27. Taking the foregoing into account, the Commission considers that advance funding of approximately 35 per cent of the legal fees projected by Ackroyd LLP for the WEAP group is appropriate. The advance funding awarded for the legal services of Mr. Secord and Ms. Bishop are also summarized in Appendix A.

28. In giving this advance funding, the Commission makes no determination respecting the value of any interveners' participation. Any intervener organization which accepts advance funding pursuant to this order accepts the risk that, if its final cost award relating to the proceeding is less than the amount of the advance funding directed in this order, it will be required to repay the difference.

29. In making its final cost award, the Commission will expect to be satisfied that all fees and disbursements claimed relate to the proceeding and conform to the Scale of Costs adopted by the Commission. The Commission will also consider the effectiveness of the participation, its relevance to the issues and whether the costs of the participation were necessary and reasonable.

4 Order

30. It is hereby ordered that:

- (1) The applicants shall pay advance intervener costs in the amount of \$76,202 to Municipal Counsellors. Payment shall be made to Municipal Counsellors, Attention: Mr. Hugh Ham at #1, 5508 1st Street S.E. Calgary, Alberta, T2H 2W9.
- (2) The applicants shall pay advance intervener legal costs in the amount of \$70,065 to the WATL Midway Group. Payment shall be made to MacPherson Leslie & Tyerman LLP, Attention: Mr. John Gruber at 1600 – 520 3rd Avenue S.W., Calgary, Alberta T2P 0R3.
- (3) The applicants shall pay advance intervener costs in the amount of \$214,692 which includes the advance funding for the jointly retained experts, to the West to East Alternate Route Protestors. Payment shall be made to Ackroyd LLP, Attention: Mr. Richard Secord at 1500 First Edmonton Place, 10665 Jasper Ave, Edmonton, Alberta T5J 3S9.

Dated on July 26, 2011

The Alberta Utilities Commission

(original signed by)

Willie Grieve
Chair

(original signed by)

Kay Holgate
Commission Member

(original signed by)

Pat Brennan
Commission Member

Appendix A- Budgeted costs and advance funding awarded

Lawyers	Estimated Fees	Advance funding awarded
Hugh Ham (Municipal Counesllors)	\$217,721	\$76,202
Richard Secord (WEAP)	\$164,500	\$57,575
Debbie Bishop (WEAP)	\$131,600	\$46,060
John Gruber (WMG)	\$98,000	\$44,100
Henry Chan (WMG)	\$52,800	\$23,760
Nicole Deschaine (WMG)	\$4,900	\$2205

Advance funding for experts is summarized below and will be paid to Ackroyd LLP, Attention Mr. Richard Secord.

Experts	Estimated Fees	Advance funding awarded
Berrien Consulting Ltd.	\$150,150	\$70,000
Cottonwood Consultants Ltd.	\$39,165	\$11,750
Andrew Jones	\$43,785	\$13,135
Brian Gettel	\$12,316	\$3695
Meyers Norris Penney	\$41,591	\$12,477