



AUC

Alberta Utilities Commission

Shell Canada Limited

**Jumping Pound Plant On-Site
13.8-Kilovolts Overhead Distribution Lines**

May 14, 2013



The Alberta Utilities Commission

Decision 2013-176: Shell Canada Limited
Jumping Pound Plant On-Site 13.8-kilovolts
Overhead Distribution Lines

Application No. 1608886
Proceeding ID No. 2016

May 14, 2013

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1 Introduction and background

1. On October 4, 2012, Genalta Power Inc. (Genalta), on behalf of Shell Canada Limited (Shell), filed a letter of enquiry registered as Application No. 1608886, with the Alberta Utilities Commission (AUC or the Commission) pursuant to Section 11 of the *Hydro and Electric Energy Regulation*. In its letter of enquiry, Genalta stated that Shell proposed to build approximately 330-metres (m) of 13.8-kilovolts (kV) overhead distribution line within the boundaries of Shell's Jumping Pound Plant site from Shell's proposed LNG facility to AltaLink Management Ltd.'s (AltaLink) Cope Creek 180S substation. The proposed distribution line would cross over a railway spur owned by Canadian Pacific.

2. Shell also requested an exemption to own and operate the proposed 13.8-kV overhead distribution line on its lands under Part 3 Section 24 of the *Hydro and Electric Energy Act*.

3. On March 11, 2013, the Commission issued an information request to Shell to clarify aspects of the application and requested some additional information respecting the proposed distribution design and the single line diagram for the Cope Creek 180S substation showing the connection of the proposed 13.8-kV distribution line.

4. Desiderata Energy Consulting (Desiderata), on behalf of Shell, on March 15, 2013, responded to the Commission request for additional information and amended the letter of enquiry to include two proposed 13.8-kV overhead distribution lines, approximately 330 m long.

5. FortisAlberta is the incumbent distribution utility in the service area where Shell's Jumping Pound Plant site is located. As such, FortisAlberta has exclusive rights to distribute electrical energy within its distribution service area, except where an exemption has been provided. Section 24 of the *Hydro and Electric Energy Act* provides an exemption to this exclusive right to serve.

6. In its original letter of enquiry, Genalta, on behalf of Shell, included a letter dated September 26, 2011, from FortisAlberta to the AESO, which stated that FortisAlberta approved Shell's application to enter into an arrangement directly with the AESO for the provision of system access service for the Shell Jumping Pound CGC project as required by Section 101(2) of the *Electric Utilities Act*.

7. The Commission approved the Cope Creek 180S substation in [Decision 2012-340](#)¹ on December 21, 2012.

2 Discussion

8. In the amended letter of enquiry, Desiderata stated that Shell intended to install an emergency generator on the 480-V distribution system. The emergency generator will be about 750-kilowatts (kW) in size and would be connected to the 480-V distribution system via a transfer trip switch such that the emergency generator would not be synchronized with FortisAlberta's distribution system.

9. Desiderata advised that a rail line crossing agreement between Canadian Pacific and Shell had been negotiated and confirmed that Shell would not energize the proposed distribution lines until the crossing agreement had been fully executed.

10. Desiderata confirmed that no environmental impacts from the proposed work were identified.

3 Findings

3.1 Section 24 of the Hydro and Electric Energy Act - exemption

11. The key legislative provision respecting whether Shell may be permitted to own and operate its distribution facility is Section 24(1)(a) of the *Hydro and Electric Energy Act*.

12. Section 24 of the *Hydro and Electric Energy Act* provides an exemption for a "person wishing to obtain electricity for use on property" to "make arrangements for the purchase of electric distribution service from the owner of the electric distribution system in whose service area the property is located" as required by Section 101 of the *Electric Utilities Act*.

13. The exemption found in the *Hydro and Electric Energy Act* states:

Exemption from Part 3

24(1) A person distributing or proposing to distribute electric energy solely on land of which the person is the owner or tenant for use on that land and

- (a) not across a public highway, or
- (b) across a public highway if the voltage level of the distribution is 750 volts or less

is not subject to this Part unless the Commission otherwise directs.

14. To the extent that this provision in the *Hydro and Electric Energy Act* conflicts with the provisions of Section 101 of the *Electric Utilities Act*, Section 24 of the *Hydro and Electric Energy Act* prevails.

¹ Decision 2012-340: Alberta Electric System Operator – Needs Identification Document and AltaLink Management Ltd – Cope Creek 180S Substation and Associated Facilities, Application No. 1608635 and 1608768, Proceeding ID No. 2016, December 21, 2012.

15. The Commission's jurisdiction to approve the construction, ownership, connection and operation of electric distribution facilities is based upon the legislation applicable to the development of electric distribution facilities in Alberta.

16. In this regard, the Commission is mindful of the purpose and relationship between the *Electric Utilities Act* and the *Hydro and Electric Energy Act* insofar as those acts establish a comprehensive system for the regulation of electricity in Alberta.

17. The purposes of the *Electric Utilities Act* are set out in Section 5 of the *Electric Utilities Act* and generally focus upon the efficient development and operation of the electricity market. In comparison, the *Hydro and Electric Energy Act* establishes the regulatory framework for the construction and operation of electric-related infrastructure and facilities in Alberta. The *Electric Utilities Act* and the *Hydro and Electric Energy Act* may be considered partner legislation through which the former establishes the regulatory framework for utility matters, such as a utility's right to provide service to customers in its service area,² while the latter regulates the construction and operation of electrical infrastructure. Given this inter-relationship, the overlapping considerations in the *Hydro and Electric Energy Act* and the *Electric Utilities Act*, and the mutual reference in the two pieces of legislation, specific provisions of the *Hydro and Electric Energy Act* must be read with regard to the *Electric Utilities Act*.

18. The purpose of the exemption granted under Section 24(1)(a) of the *Hydro and Electric Energy Act* is to ensure that development is restricted to private property only. Consequently, the Commission must consider whether the new distribution facility falls within the parameters set out in Section 24(1)(a). If the answer to this question is yes, the Commission will then consider whether it would be in the public interest to grant the exemption. If the answer to this question is no, that is the end of the inquiry.

19. There are multiple components to the exemption found in Section 24(1)(a). First, a party seeking to avail itself of this exemption must demonstrate that it is proposing to distribute electric energy solely on land of which the person is the owner or tenant for use on that land. Second, the person must not be seeking to distribute electric energy across a public highway.

20. The Commission has addressed each of these requirements and notes that both requirements must be met in order to qualify for an exemption.

3.1.1 Sole possession of the land

21. In the original letter of enquiry, Genalta stated that the affected land and its ownership would be limited to land owned by Shell. Additionally, the land affected would be within the boundaries of the plant site. As such, the Commission considers Shell to have met the first component of the Section 24(1)(a) requirement.

3.1.2 Does not cross a public highway

22. Shell's proposed 13.8-kV overhead distribution lines from AltaLink Cope Creek 180S substation to Shell's LNG Facility Plant site would cross a Canadian Pacific railway spur.

² Section 101 of the *Electric Utilities Act*.

23. Section 1(1) of the *Hydro and Electric Energy Act* defines a “public highway” as follows:

- (1) “public highway” means any land owned by the Crown or local authority that is used or surveyed for use as a public highway, road, street or lane, or other public way;

24. Given these findings, the Commission is of view that the crossing would not offend Section 24(1)(a) of the *Hydro and Electric Energy Act* as the railway spur is not intended for use by the public and does not meet the definition of “a public highway” under Section 1(1) of the *Hydro and Electric Energy Act*.

3.1.3 Public interest

25. Having determined that Shell is proposing to distribute electricity over private lands that do not cross a public highway, the Commission must then determine whether it is in the public interest to grant the exemption under Section 24(1)(a) of the *Hydro and Electric Energy Act*.

26. Genalta has outlined Shell’s operational needs in the letter of enquiry including the requirement for up to 16-MW of electrical load to operate its natural gas compression facility.

27. Additionally, Genalta advised that AltaLink’s Cope Creek 180S substation has designated two 138/13.8-kV transformers for Shell’s exclusive use.

28. Further, FortisAlberta, as the incumbent distribution utility, has provided its approval for Shell to enter into an arrangement directly with the AESO for the provision of system access service pursuant to Section 101(2) of the *Electric Utilities Act*.

29. The Commission finds that it is in the public interest for Shell to own and operate the proposed distribution line and approves Shell’s application for an exemption pursuant to Section 24(1)(a) of the *Hydro and Electric Energy Act*.

3.2 Emergency generator

30. The Commission is satisfied that Shell’s emergency generator, with capacity of approximately 750-kW, complies with provisions of the power plant exemptions for generators under one megawatt in capacity as provide for in [AUC Bulletin 2012-11](#)³. Therefore, no application for approval of the generator is required.

3.3 Connection

31. The proposed 13.8-kV distribution lines would connect Shell’s facilities to AltaLink's Cope Creek 180S substation located in the southwest quarter of Section 24, Township 25, Range 5, west of the Fifth Meridian.

³ Bulletin 2012-11: Revised AUC Rule 007 application requirements applicable to power plant exemptions and minor alterations, October 12, 2012.

4 Decision

32. Pursuant to Section 24 (1) (a) of the *Hydro and Electric Act*, the Commission approves the application and grants Shell an exemption to own and operate the 13.8-kV overhead distribution lines.

33. Pursuant to Section 18 of the *Hydro and Electric Act*, the Commission grants the connection order set out in Appendix 1 – Shell Canada Limited 13.8-kV distribution lines – Order No. U2013-243 – May 14, 2013. (Appendix 1 will be distributed separately).

Dated on May 14, 2013.

The Alberta Utilities Commission

(original signed by)

Mark Kolesar
Vice Chair