



Alberta Electric System Operator and ENMAX Power Corporation

138kV Transmission System Reinforcement in South Calgary—Foothills Area Transmission

Costs Award

March 7, 2016

Alberta Utilities Commission

Decision 21047-D01-2016: Alberta Electric System Operator and ENMAX Power Corporation
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Proceeding 21047

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1 Introduction

1. On August 25, 2014, the Alberta Electric Systems Operator (AESO) filed a needs identification document (NID) application with the Alberta Utilities Commission, registered as Application 1610795 (the NID application), pursuant to Section 34 of the *Electric Utilities Act*. The NID application was in relation to the need for a 138-kV transmission system reinforcement in the south Calgary area. The AESO requested approval of the NID application to resolve transmission system constraints and to contribute to the long term reliable operation of the 138-kV transmission system in the south Calgary area.
2. Pursuant to Section 35(1) of the *Electric Utilities Act*, the AESO directed ENMAX Power Corporation (ENMAX) to submit a facility application to the AUC to meet the need identified in the NID application.
3. ENMAX filed a facility application with the Commission on August 26, 2014, registered as Application 1610807 (the facility application), pursuant to sections 14, 15, and 21 of the *Hydro and Electric Energy Act* to meet the need identified by the AESO.
4. The AESO and ENMAX requested that these applications be considered jointly pursuant to Section 15.4 of the *Hydro and Electric Energy Act*. The Commission advised the AESO and ENMAX that the NID application and facility application would be considered jointly in Proceeding 3386.
5. On March 17, 2015, ENMAX filed an amendment to the facility application. The Commission issued a notice of hearing and application amendment on April 17, 2015. The notice indicated that a hearing was scheduled to commence on August 24, 2015.
6. On May 29, 2015, Ms. Mona Pronk, the representative of the Neighbours Against Overhead Lines group (NAOL group), filed a request for a postponement of the scheduled hearing. In a letter dated June 19, 2015, the Commission granted the NAOL group an extension of approximately four months to prepare for the hearing and rescheduled the hearing. A revised notice of hearing, issued on July 16, 2015, advised that the hearing would commence on October 14, 2015 in Okotoks, Alberta.
7. The hearing commenced on October 14, 2015 and concluded with oral argument and reply argument on October 21, 2015. The Commission considers the close of record for the NID and facility applications to be October 21, 2015.
8. On October 21, 2015, during the oral hearing, Mr. Bruce Brander requested an extension of time to file cost claims applications for his clients in relation to Proceeding 3386. The

Commission granted the extension to November 27, 2015 for the filing of these costs claim applications.

9. On November 20, 2015, the Commission received costs claim applications from the Ollerenshaw/Soutzo group, NAOL, Brookfield Residential (Alberta) LP, the Genesis Land Development Corporation, the Legacy group, and the Eberly group. The Commission assigned Proceeding 21047 to the costs claim applications.

10. The Commission circulated a summary of costs claimed to interested parties on November 25, 2015, and requested comments regarding the figures listed in the summary, or on the merits of the costs claimed, by December 9, 2015.

11. On November 27, 2015, the Commission received cost claim applications from Genstar Development Company-Walden, Genstar Development Company-Walden 3, Royop (Legacy) Development Ltd., and Genstar Development Company-Rangeview.

12. The Commission circulated a revised summary of costs claimed to interested parties on November 30, 2015, and requested comments regarding the figures in the revised summary, or on the merits of the costs claimed, by December 14, 2015.

13. Comments were received from ENMAX on December 8, 2015, regarding the costs claim application of Brookfield Residential (Alberta) LP.

14. The Commission considers the close of record for this costs application to be December 14, 2015.

15. On January 12, 2016, the Commission issued Decision 3386-D01-2016¹ with respect to the NID and facility applications.

2 Commission's authority to award costs

16. When assessing costs claims pursuant to Section 21 of the *Alberta Utilities Commission Act*, SA 2007, c. A-37.2, the Commission applies Rule 009: *Rules on Local Intervener Costs* (Rule 009). Appendix A of Rule 009 also prescribes a *Scale of Costs* applicable to all costs claimed.

17. In exercising its discretion to award costs, the Commission will, in accordance with Section 7 of Rule 009, consider whether an eligible participant's costs are reasonable and directly and necessarily related to the proceeding, and whether the eligible participant acted responsibly in the proceeding and contributed to a better understanding of the issues before the Commission. The Commission will be mindful of a participant's willingness to co-operate with the Commission and other participants to promote an efficient and cost-effective proceeding.

¹ Decision 3386-D01-2016: Alberta Electric System Operator Needs Identification Document, ENMAX Power Corporation Facility Application, Foothills Area Transmission Development in the South of Calgary, Proceeding 3386, Applications 1610795-1, 1610807-1, 3386-A001, 3386-A002, 3386-A003, 3386-A004.

3 Qualifications for local intervener costs

18. 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 associations of persons who, in the opinion of the Commission,

(a) has interests 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 hydro development, power plant or transmission line under the *Hydro and Electric Energy Act* or a gas utility pipeline under the *Gas Utilities Act*, but unless otherwise authorized by the Commission does not include a person or group or association of persons whose business interest may include a hydro development, power plant or transmission line or gas utility pipeline.

19. In Proceeding 3386, the Commission granted standing to persons that own or reside on property that is within 800 metres of the proposed preferred route or alternate route for the applied-for transmission lines. The Commission finds that persons that own and reside on property, or are entitled to occupy property located within 800 metres of a proposed transmission facility, are local interveners who qualify for intervener funding under the *Alberta Utilities Commission Act*. The persons or groups who have filed costs claims are persons that own or reside on property, or are entitled to occupy property, within 800 metres of the proposed preferred route or alternate route for the applied-for transmission lines. They therefore qualify as local interveners under Section 22 of the *Alberta Utilities Commission Act*. Accordingly, the Commission finds that the individuals and intervener groups who have submitted costs claims qualify to claim local intervener costs.

4 Commission considerations and findings on common matters

20. The Commission has reviewed the costs claim of each intervener or intervener group for legal fees, consultants’ fees, honoraria and expenses. It has considered the costs claimed in light of whether the costs claim was for one intervener or in the case of an intervener group, the size of the group. It has also taken into account the level of participation in the proceeding of each intervener or intervener group.

21. Legal counsel claimed the following number of hours in this proceeding:

Group or Person	Law Firm	Preparation	Attendance	Argument	Total hours claimed
Ollerenshaw/Soutzo	Carscallen LLP	275.80	66.70	0.20	342.70
NAOL	Prowse Chowne LLP	256.90	63.50	16.50	336.9
Brookfield Residential (Alberta) LP	McLennan Ross LLP	154.90	58.60	6.00	219.50
Genesis Land Development Corporation	Christopher Davis Law	48.01	20.00	5.50	73.51

Eberley	David L. Campbell	242.40	24.30	25.90	292.60
Legacy	Wilson Laycraft	120.70	58.75	3.75	183.20
Genstar Development Company -Walden	Brander Law- claim 1	139.70	7.70	7.90	155.30
Genstar Development Company-Walden 3	Brander Law- claim 2	93.20	0.00	0.00	93.20
Royop (Legacy) Development Ltd.	Brander Law- claim 3	73.30	12.80	10.40	96.50
Genstar Development Company-Rangeview	Brander Law- claim 4	146.10	3.90	5.10	155.10
Brander Law –total		452.30	24.40	23.40	500.1

22. In assessing the legal fees, the Commission considered the reasonableness of the costs claimed in relation to the issues raised by an intervener or intervener group, the size of the group, the number of experts retained, and the use of common experts.

4.1 Brown and Associates Planning Group

23. The claim for Brown and Associates relates to 798.50 hours of work performed by Ms. Bela Bharadwa, Mr. Doug MacDonald, Ms. Nancy Sanborn, Mr. Adam Grier, Mr. JP Leclair, Ms. Tracy Zhang, Ms. Julie Brache, Ms. Dora Bundgaard, Ms. Meg Bharadwa, and Mr. Patrick Wetter. The tasks included the preparation of the Land Use Planning Report and attendance at the hearing.

24. The total consulting fees claimed for the preparation of the report was \$120,812.00 for 631 hours at various hourly rates, and 10.50 hours at a rate of \$104.00 per hour for an administrative assistant. A total of \$32,903.50 in consulting fees for 150.50 hours at various hourly rates and 6.5 hours for an administrative assistant at a rate of \$104.00 per hour was claimed for preparation and attendance at the hearing. These fees were apportioned in the same manner as the report. The consulting fees claimed are in accordance with the *Scale of Costs*, with the exception of those claimed for Ms. Sanborn, Mr. Grier, and Ms. Brache. Submitted supporting documentation indicates that these three individuals provided consulting services at an hourly rate of \$140.00 per hour, \$125.00 per hour, and \$135.00 per hour respectively. The Commission's *Scale of Costs* currently permits recovery of costs for consultants with less than five years of experience to a maximum of \$120.00 per hour. Further, administrative costs are only eligible at \$45.00 per hour under the *Scale of Costs*.

25. Brown and Associates prepared the Land Use Planning and Evaluation Report and testified for a number of the interveners on the proposed alternate route, including the Ollerenshaw/Soutzo group, Genstar Development Company, the Legacy group, Genesis Land Development Corporation, and Roy-op (Legacy) Development Ltd. The report consisted of a general section applicable to all the lands owned by these interveners and a specific section on the lands of each intervener. The invoices filed show a cost breakdown amongst these interveners based on the length of line in metres rather than specific hours spent for each land developer, and invoices for each intervener were filed on the basis of this cost breakdown.

26. In this part of this decision the Commission's findings are on the total consulting fees claimed by Brown and Associates. It will not be repeating the findings for each costs claim of the interveners in question. The Commission finds that the need for two senior planners was not shown. There are fees claimed for numerous planning assistants and technicians which do not appear to have reduced the time spent by the two senior planners. The tasks described for

preparation and attendance at the hearing show that there was duplication amongst the work done by the consultants. In addition, although Brown and Associates cooperated with Urban Systems Ltd. (planning) retained by Brookfield Residential (Alberta) LP in the preparation of its report, the cooperation amongst these interveners did not appear to result in a reduction in consultant costs. As a result, the Commission finds that the total number of hours claimed is not reasonable for the tasks performed, particularly when consideration is given to the fact that the planning issues were similar for each of the interveners in question. For these reasons, the Commission reduces the total consultant fees claimed for Brown and Associates by 30 per cent and this reduction is made to the costs claim of each of the interveners claiming these costs.

4.2 Urban Systems Ltd. (Engineering)

27. Urban Systems Ltd. was retained by the Ollerenshaw/Soutzo group, Genstar Development Company, Genesis Land Development Corporation and Brookfield Residential (Alberta) LP. The claim for Urban Systems Ltd. relates to engineering consulting services provided by Mr. Philip Nottveit, Mr. Josh Workman, Mr. Terry Pavelenko, Mr. Chris Welk, Mr. Brock Dyck, Ms. Joanne Lutynech, and Ms. Danielle Ferguson. The tasks included meeting with landowners, reviewing information requests (IRs) and IR responses, drafting a planning map, drafting the Urban Systems Ltd. engineering report and attendance at the hearing.

28. The consultant's costs of \$35,390.48 were apportioned 25 per cent to each intervener equally. The Commission's findings are on the total consulting fees claimed by Urban Systems Ltd. in this part of this decision. It will not be repeating the findings for each costs claim of the interveners in question.

29. The fees have been claimed in accordance with the *Scale of Costs*, with the exception of those claimed for Mr. Workman and Mr. Dyck. Submitted supporting documentation indicates that these two individuals provided consulting services at an hourly rate of \$167.40 per hour and \$145.80 per hour, respectively. In the case of Mr. Workman, the Commission's *Scale of Costs* currently permits recovery of costs for consultants with less than five years of experience to a maximum of \$120.00 per hour. In the case of Mr. Dyck, the *Scale of Costs* permits recovery of costs for consultants with less than eight years of experience to a maximum of \$160.00 per hour.

30. In addition, the need for project coordinators at a cost of \$2,385.16 was not substantiated. Consultant costs were claimed for a number of technologists and an engineer in training. The Commission considers that there was duplication of services considering the work done by the senior engineer, the engineer, and the technologists. In addition, fees were claimed for preparing the costs claim. These fees are disallowed. Accordingly, the Commission reduces the total consultant fees claimed by 15 per cent.

5 Commission findings on specific costs claims

5.1 Ollerenshaw/Soutzo group

31. Carscallen LLP submitted a costs claim application on behalf of the Ollerenshaw/Soutzo group totalling \$221,547.47. This group is comprised of two landowners situated along the proposed alternate route. The application requests recovery of the following costs:

- \$117,614.35 for Carscallen LLP, comprising legal fees of \$106,092.00, disbursements of \$5,921.67, and GST of \$5,600.68.

- \$58,769.28 for Brown and Associates, comprising consulting fees of \$54,693.00, disbursements of \$1,296.00, and GST of \$2,780.28.
- \$9,265.68 for Urban Systems Ltd., comprising consulting fees of \$8,480.70, disbursements of \$343.75, and GST of \$441.23.
- \$19,445.66 for CottonWood Consultants Ltd., comprising consulting fees of \$18,360.00, disbursements of \$159.68, and GST of \$925.98.
- \$15,802.50 for Grid Development and Design Inc., comprising consulting fees of \$15,050.00 and GST of \$752.50.
- Honorarium of \$500 for Ollerenshaw Ranch Ltd. for forming a group and attendance honorarium of \$150.00 for Mr. Sandy Soutzo.

5.1.1 Carscallen LLP

32. The claim for Carscallen LLP relates to 342.70 hours of legal services performed by Mr. Stanley Carscallen, Mr. Michael Niven, and Mr. Nicholas Ramessar. Carscallen LLP submitted that the issues in this proceeding were complex and warranted the involvement of junior counsel who did most of the preparation and drafting of the intervention and participation in the proceeding. Mr. Carscallen claimed 5.00 hours for preparation. The hours claimed for Mr. Niven relate to 109.90 hours for preparation, 29.70 for attendance at the oral hearing, and 0.2 hours for preparation of the closing argument. The hours claimed for Mr. Ramessar relate to 160.90 for preparation and 37 hours for attendance at the oral hearing. The tasks performed by the three legal counsel included:

- Reviewing ENMAX's facility application and AESO's NID application
- Consulting with retained experts and assisting in the preparation of their respective reports
- Preparation of IRs and IR responses
- Meeting with counsel for other intervenor groups on the proposed alternate route
- Preparation of intervenor evidence
- Preparing for, and attendance at, the oral hearing.

33. In light of the fact that the Ollerenshaw/Soutzo group was comprised of two landowners, the need for senior and junior counsel has not been shown. In addition, the issues raised in the proceeding were not complex in nature. While the costs claim application stated that junior counsel did most of the work in the preparation of the intervention to avoid duplication, senior counsel nonetheless claimed 114.90 hours for preparation, while junior counsel claimed 160.90 hours. The invoices also show some duplication of tasks. Attendance hours of 29.70 were claimed by senior counsel and 37 hours were claimed by junior counsel. The attendance of both counsel at the oral hearing was not substantiated and travel time for attendance was charged at the hourly rate, rather than at one-half the hourly rate as set out in the *Scale of Costs*. Otherwise, the legal fees claimed were in accordance with the *Scale of Costs*. The Commission also took into account that legal counsel for the intervenors (land developers) on the alternate route

cooperated in the preparation of their respective intervention. This should have reduced the legal fees incurred. As a result, the Commission finds that the total number of hours claimed by legal counsel is not reasonable and reduces the total amount of legal costs by 25 per cent.

34. The Commission finds the disbursements claimed for meals, mileage, photocopying, courier fees, external printing, transcripts, and phone charges to be reasonable and in accordance with the *Scale of Costs*.

35. The Commission, therefore, approves the claim for legal services in the total amount of \$89,765.20, which is comprised of legal fees of \$79,569.00, disbursements of \$5,921.67, and GST of \$4,274.53.

5.1.2 Brown and Associates Planning Group

36. Although the Ollerenshaw/Soutzo group costs claim application stated that 277.95 hours were claimed for consulting fees for Brown and Associates, and a further 6.5 hours claimed for administrative services, it is not clear how the number of hours were calculated from the supporting invoices. Based on the reasons set out in paragraph 26, the Commission reduces the consulting fees claimed for Brown and Associates by the Ollerenshaw/Soutzo group by 30 per cent.

37. The Commission finds the disbursements claimed for land title searches and external printing to be reasonable and in accordance with the *Scale of Costs*.

38. The Commission, therefore, approves the claim for consulting services provided by Brown and Associates to Ollerenshaw/Soutzo group in the total amount of \$41,243.37, which is comprised of consulting fees of \$37,983.40, disbursements of \$1,296.00, and GST of \$1,963.97.

5.1.3 Urban Systems Ltd.

39. The claim for Urban Systems Ltd. relates to the Ollerenshaw/Soutzo group's portion of the total consulting services claimed. For the reasons set out in paragraphs 29 and 30, the Commission reduces the consultant costs claimed by the Ollerenshaw/Soutzo group for Urban Systems Ltd. by 15 per cent.

40. The Commission finds the disbursements claimed for purchasing digital aerial survey maps to be reasonable and in accordance with the *Scale of Costs*.

41. The Commission, therefore, approves the claim for consulting services in the total amount of \$7,715.32, comprised of consulting fees of \$7,004.17, disbursements of \$343.75, and GST of \$367.40.

5.1.4 CottonWood Consultants Ltd.

42. The claim for CottonWood Consultants Ltd. relates to 66.00 hours of consulting services provided by Mr. Cliff Wallis. The hours claimed for Mr. Wallis relate to 53.50 for drafting information requests (IR) and reviewing IR responses, responding to IR requests from ENMAX, and drafting a report on the environmental impacts of the transmission application, and 12.5 hours for attendance at the hearing. A further 4.00 hours for travel were charged at half of Mr. Wallis' professional rate.

43. The Commission has assessed the costs claim for consulting services for CottonWood Consultants Ltd. and finds that the tasks described and hours claimed are reasonable, directly and necessarily related to the proceeding and in accordance with the *Scale of Costs*. The Commission also finds the disbursements claimed for mileage to be reasonable and in accordance with the *Scale of Costs*.

44. The Commission, therefore, approves the claim for consulting services in the total amount of \$19,445.66, which is comprised of consulting fees of \$18,360.00, disbursements of \$159.68, and GST of \$925.98.

5.1.5 Grid Development and Design Inc.

45. The claim for Grid Development and Design Inc. relates to 60.20 hours for consulting services provided by Mr. Trevor Cline. The hours claimed relate to reviewing and evaluating the NID application and the facility application, and drafting information requests to ENMAX.

46. The Commission denies the consultant fees claimed by Grid Development and Design Inc. because no report was prepared by Mr. Cline, he was not called as a witness, and the information requests submitted were of little assistance to the Commission. Further, the NID application was not at issue in the proceeding in that parties agreed that there was no need for the AESO to attend the hearing to be questioned. For these reasons, the consulting services were of no assistance to the Commission in this proceeding.

5.1.6 Honoraria

47. The costs claimed by Ollerenshaw Ranch Ltd. of \$500 for forming a group is in accordance with the *Scale of Costs*. Similarly, the attendance honoraria of \$150 for Mr. Sandy Soutzo is in accordance with the *Scale of Costs*.

48. The Commission, therefore, approves the claim for honoraria in the total of \$650, which is comprised of \$500 for the Ollerenshaw Ranch Ltd. for forming a group, and \$150 for Mr. Soutzo for attendance at the hearing.

5.1.7 Total Costs Awarded

49. Accordingly, the Commission approves recovery of the Ollerenshaw/Soutzo Group's costs in the amount of \$158,819.55, which is comprised of legal fees of \$79,569.00, consulting fees of \$63,347.57, disbursements of \$7,721.10, GST of \$7,531.88, and honoraria of \$650.00.

5.2 Neighbours Against Overhead Lines

50. Prowse Chowne LLP submitted a costs claim on behalf of the NAOL totalling \$139,770.41. The claim requests approval of the following costs:

- \$100,936.59 for Prowse Chowne LLP, comprising legal fees of \$87,266.00, disbursements of \$8,864.09 and GST of \$4,806.50.
- \$19,593.13 for Gettel Appraisals Ltd., comprising consulting fees of \$18,177.50, disbursements of \$482.92, and GST of \$932.71.
- \$16,401.01 for Berrien Associates Ltd., comprising consulting fees of \$15,508.00, disbursements of \$112.01, and GST of \$781.00

- Attendance honoraria for 19 participants totalling \$2,500, as well as disbursements of \$323.50 and GST of \$16.17.

51. On January 15, 2016, Ms. Mona Pronk of the NAOL submitted a letter to the Commission. In the letter, Ms. Pronk stated that the NAOL had been formed and experts retained after speaking with Commission representatives. The letter stated that the experts would only agree to work for the NAOL if the group covered any costs that were not approved by the Commission. Ms. Pronk noted that many of the members in the group are undergoing financial hardship and that if the costs for experts were not approved in full, covering the shortfall would be a struggle for many members of the group. Ms. Pronk requested that the Commission considered the financial hardship of the NAOL when evaluating the merits of the costs claimed by the NAOL.

5.2.1 Prowse Chowne LLP

52. The costs claim for Prowse Chowne LLP relates to 315.90 hours of legal services provided by Mr. Donald Mallon and Ms. Daniela O’Callaghan. The hours claimed for Mr. Donald Mallon relate to 47.5 hours for preparation, 34.00 hours for attendance at the hearing, and 14.00 hours for drafting the final argument. The hours claimed for Ms. O’Callaghan relate to 188.40 hours for preparation, 29.50 hours for attendance at the hearing, and 2.50 hours for drafting the final argument. A further 21 hours was claimed for support services performed by Ms. Donna Terlecki for preparation of the costs claim. The tasks undertaken by legal counsel include:

- review of the NID and transmission applications,
- meeting with retained experts,
- drafting IRs and reviewing IR responses,
- reviewing expert evidence and reply evidence, and
- preparing for, and attendance at, the oral hearing.

53. The Commission has assessed the costs claim for legal services provided by Prowse Chowne LLP. The Commission observes that travel time may only be claimed for attendance at the hearing therefore the Commission disallows 21.5 hours claimed for travel. In addition, the Commission does not award costs to prepare a costs claim because the preparation of a costs claim is after the record of the original proceeding has closed. As a result, the 21 hours claimed for the administrative assistant are denied. Given the number of residents which make up the NAOL, the Commission finds it reasonable that a junior counsel was employed to assist with the representation of the large number of residents. The use of junior counsel also resulted in a reduction in the legal fees claimed. The legal fees claimed were in accordance with the *Scale of Costs*. For these reasons and considering the reductions, the Commission finds that the tasks described and hours claimed are reasonable, directly and necessarily related to the proceeding.

54. The Commission has reviewed the disbursements claimed for Prowse Chowne LLP and notes that not all the claims for recovery of disbursements are in accordance with the *Scale of Costs*. The claims made for accommodation by both Mr. Mallon and Ms. O’Callaghan were not in accordance with the rates permitted by the *Scale of Costs*. The Commission has therefore

determined that a reduction in the daily rate for accommodation is warranted, in this instance from the claimed rate of \$209.50 to \$140.00 for a period of five days only.

55. The Commission also disallows the claims for accommodation on October 8, 2015 for both Mr. Mallon and Ms. O’Callaghan, as this date does not fall within the dates of the oral hearing. The disbursement claim for mileage before October 13, 2015 in the amount of \$932.24 is similarly disallowed.

56. The Commission approves the remaining claims for disbursements for meals, mileage, transcripts, courier fees, photocopying, and external printing in the amount of \$4,596.13. Consequently, the Commission approves total disbursements for Prowse Chowne LLP in the amount of \$6,878.49.

57. The Commission, therefore, approves recovery of costs for Prowse Chowne LLP in the total amount of \$90,362.47, which is comprised of legal fees of \$79,181.00, disbursements of \$6,878.49, and GST of \$4,302.98.

5.2.2 Gettel Appraisals Ltd.

58. The costs claim for Gettel Appraisals Ltd. relates to 71.25 hours of consulting services provided by Mr. Brian Gettel and Mr. Ryan Archer. The hours claimed for Mr. Gettel relate to 10.25 hours for research and analysis. The hours claimed for Mr. Archer relate to 52.00 hours of research and analysis and drafting the appraisal report, and 9.00 hours for attendance at the hearing. A further 12.00 hours for travel time were claimed at half of Mr. Archer’s professional rate.

59. The Commission notes the submissions of Ms. Mona Pronk, member of the NAOL regarding the financial hardship that some members of NAOL are currently facing and that NAOL has agreed to pay the difference in costs from any costs award for Gettel Appraisals Ltd.

60. In Decision 3386-D01-2016, the Commission determined that the Gettel appraisal report was of little assistance. The Commission considers that the hours claimed are not reasonable for the tasks performed nor justified by the utility of the report, and in the circumstances it would reduce the consulting fees claimed by 60 per cent. However, given that the members of NAOL would have to pay the difference as stated by Ms. Pronk and the exceptional financial situation of some of the members because of the economic downturn, the Commission has decided to reduce the amount of consultant fees claimed by 20 per cent. This reduction is in addition to the reduction for the fees claimed for six hours of travel time, which was not for purposes of attending the hearing. The Commission encourages Gettel Appraisal Ltd. to forgo the amount to be collected from the members of the NAOL in light of the members’ current financial situation.

61. The disbursements of Gettel Appraisals Ltd. are not all claimed in accordance with the *Scale of Costs*. The rate claimed in the expense for accommodation is not permissible under the *Scale of Costs*. The Commission therefore reduces the disbursement for accommodation from \$163.33 to \$140.00 to bring it within the amounts permitted by the *Scale of Costs*. Further, mileage and parking cannot be claimed other than for attending the hearing and these disbursements are therefore disallowed.

62. The Commission, therefore, approves recovery of costs claimed for consulting services for Gettel Appraisals Ltd. in the total amount of \$14,691.60, which is comprised of consulting fees of \$13,852.00, disbursements of \$140.00, and GST of \$699.60.

5.2.3 Berrien Associates Ltd.

63. The costs claim for Berrien Associates Ltd. relates to 58.90 hours of consulting services provided by Mr. Robert Berrien, and 17.40 hours for support services. The hours claimed for Mr. Berrien relate to 56.90 hours for review of the application and drafting the report, and 2.0 hours for attendance at the hearing.

64. The Commission has assessed the costs claim of Berrien Associates Ltd. and finds these costs to be reasonable and within the *Scale of Costs*. The Commission awards the costs as claimed. The Commission also finds the disbursements claimed for courier services and external printing are in accordance with the *Scale of Costs*.

65. The Commission, therefore, approves recovery of costs claimed for consulting services for Berrien Associates Ltd. in the amount of \$16,401.01, which is comprised of consulting fees of \$15,508.00, disbursements of \$112.01, and GST of \$781.00.

5.2.4 Honoraria

66. The costs claim included a claim for attendance honoraria for 19 participants totalling \$2,000, a claim of \$500 by Ms. Mona Pronk for forming an intervener group, disbursements for food and mileage of \$323.50, and GST of \$16.17.

67. In the case of large local intervener groups, the *Scale of Costs* allows up to six participants to claim attendance honoraria unless exceptional circumstances are found. The Commission is exercising its discretion in assessing the claim for honoraria, and awards an honoraria to those ten interveners who were part of the NAOL's witness panel.

68. Accordingly, the Commission approves the claim for attendance honoraria for Mr. Nathan Baines, Mr. Jeremy Bateson, Mr. Jason Berkholtz, Ms. Kathy Lepard, Ms. Catherine Muirhead, Mr. Jim Muirhead, Ms. Lynn Niosi, Ms. Jennifer Proctor, Ms. Mona Pronk, and Mr. Barry Woods in the total amount of \$1,150. Additionally, the claim by Ms. Pronk for \$500 for forming an intervener group is in accordance with the *Scale of Costs* and is approved by the Commission.

69. The claims for disbursements for mileage and meals for these ten interveners are also within the *Scale of Costs*.

70. The Commission, therefore, approves the claim for honoraria in the total amount of \$1,650.00, which is comprised of \$1,150 in attendance honoraria, \$500 for forming an intervener group, disbursements of \$244.30, and GST of \$12.21.

5.2.5 Total amount awarded

71. Accordingly, the Commission approves recovery of the NAOL's costs claim in the total amount of \$126,919.00, comprised of \$79,181.00 in legal fees, \$32,748.00 in consulting fees, disbursements of \$7,374.80, honoraria of \$1,650, and GST of \$5,965.20.

5.3 Brookfield Residential (Alberta) LP

72. McLennan Ross LLP submitted a costs claim on behalf of Brookfield Residential (Alberta) LP (Brookfield) totalling \$151,829.69. The claim requested approval of the following costs:

- \$106,965.04 for McLennan Ross LLP, comprising legal fees of \$97,089.00, disbursements of \$4,782.47, and GST \$5,093.57.
- \$34,947.05 for Urban Systems Ltd. in a planning capacity, comprising consulting fees of \$33,282.90 and GST of \$1,664.15.
- \$9,290.00 for Urban Systems Ltd. in an engineering capacity, comprising consulting fees of \$8,486.68, disbursements of \$360.94, and GST of \$442.38.
- Attendance honoraria for three participants totalling \$350.00, as well as disbursements of \$273.47 and GST of \$4.13.

5.3.1 Comments from ENMAX

73. In its submission, ENMAX stated that the fees claimed by legal counsel were above what is permitted by the *Scale of Costs*. ENMAX also stated that it appeared the attendance honoraria claimed by Brookfield was claimed by Brookfield staff. ENMAX argued that salaried staff should not be allowed honoraria for attending the hearing. No reply comments were received from Brookfield.

5.3.2 McLennan Ross LLP

74. The cost claim for McLennan Ross LLP relates to 219.50 hours of legal services provided by Mr. Gavin Fitch and Mr. Marco Baldasaro. The hours claimed for Mr. Fitch relate to 120.30 hours for preparation, 28.50 hours for attendance at the oral hearing, and six hours for the preparation of the closing argument. The hours claimed for Mr. Baldasaro relate to 34.60 hours for preparation and 30.10 hours for attendance at the oral hearing. The tasks performed by counsel include:

- reviewing the NID and facility applications,
- preparation of IRs and review of IR responses,
- meeting with client and retained experts,
- reviewing reports of retained experts and evidence,
- preparation for, and attendance at, the oral hearing.

75. The fees for both counsel have not been claimed in accordance with the *Scale of Costs*. Submitted supporting documentation indicates that Mr. Fitch is claiming for legal services at an hourly rate of \$525.00 per hour and Mr. Baldasaro at an hourly rate of \$245.00 and \$240.00 per hour. The Commission's *Scale of Costs* currently permits recovery of costs for legal counsel with more than 12 years at the bar to a maximum of \$350.00 per hour. In the case of Mr. Baldasaro, the *Scale of Costs* permits recovery of costs for legal counsel with less than five years at the bar to a maximum of \$240.00 per hour. Consequently, amounts associated with the legal fees have been adjusted to bring them into conformity with the *Scale of Costs*. This adjustment decreases the original amount claimed by \$27,381.00 and results in a new total of \$69,708.00 in fees for legal services provided by McLennan Ross LLP.

76. Further, because legal services were provided for one client and the issues were not complex, the need for using junior counsel was not substantiated in the costs claim application. Considering the total number of hours claimed and the tasks performed, the legal fees claimed for Mr. Baldasaro are reduced by 20 per cent.

77. The Commission finds the disbursements claimed for meals, mileage, parking, transcript fees, postage, photocopying, corporate registry searches, and external printing to be reasonable and in accordance with the *Scale of Costs*.

78. The Commission, therefore, approves recovery of costs claimed for legal services for McLennan Ross LLP in the amount of \$74,954.11, which is comprised of legal fees of \$66,602.40, disbursements of \$4,782.47, and GST of \$3,569.24.

5.3.3 Urban Systems Ltd. (Planning)

79. The cost claim for Urban Systems Ltd. in a planning capacity relates to 212.50 hours for consulting work performed by Ms. Jane Power, Mr. Ori Abara, and Mr. Terry Pavlenko. The hours claimed relate to 206.50 hours for review of the NID and facility applications, meeting with landowners, drafting IRs and reviewing IR responses, and drafting the South Calgary Planning Report, and six hours for attendance at the oral hearing.

80. While the fees claimed for consulting services provided by Urban Systems Ltd. for planning services are in accordance with the *Scale of Costs*, there was some coordination with Brown and Associates who was preparing the planning report for other interveners (land developers) on the alternate route. There is some duplication between the Urban Systems Ltd. planning report and that of Brown and Associates. Brookfield could have cooperated with the other land developers on the alternate route, thereby reducing expert costs. For these reasons, the Commission reduces the consultant fees claimed by Urban Planning Systems Ltd. by 25 per cent.

81. The Commission, therefore, approves the claim for consulting services in the total amount of \$26,210.28, which is comprised of consulting fees of \$24,962.18 and GST of \$1,248.11.

5.3.4 Urban Systems Ltd. (Engineering)

82. The costs claim for Urban Systems Ltd. in an engineering capacity relates to Brookfield's portion of the total consulting services claimed. For the reasons set out in paragraphs 29 and 30, the Commission reduces the consultant costs claimed by Brookfield for Urban Systems Ltd. by 15 per cent.

83. The Commission finds the disbursements claimed for purchasing digital aerial survey maps to be reasonable and in accordance with the *Scale of Costs*.

84. The Commission, therefore, approves the claim for consulting services in the total amount of \$7,737.20, comprised of consulting fees of \$7,007.82, disbursements of \$360.94, and GST of \$368.44.

5.3.5 Honoraria

85. The costs claim requested attendance honoraria for Mr. Bob Clark, Ms. Tara Steell, and Mr. Geoff Noble totalling \$350.00, as well as disbursements for mileage and meals of \$273.47 and GST of \$4.13.

86. The claim for attendance honoraria for Mr. Clark, Ms. Steell and Mr. Noble is in accordance with the *Scale of Costs*. Although these persons are employees of Brookfield, the Commission exercises its discretion and approves each of the attendance honoraria claimed.

87. The claims for disbursements for mileage and meals are also reasonable and in accordance with the *Scale of Costs*.

88. The Commission, therefore, approves the claim for honoraria in the total amount of \$350, disbursements of \$273.47, and GST of \$4.13.

5.3.6 Total costs awarded

89. Accordingly, the Commission approves recovery of costs for Brookfield in the amount of \$109,529.19, comprised of legal fees of \$66,602.40, consulting fees of \$31,969.99, honoraria of \$350.00, disbursements of \$5,416.88, and GST of \$5,189.92.

5.4 Genesis Land Development Corporation

90. Christopher Davis Law submitted a costs claim on behalf of the Genesis Land Development Corporation totalling \$51,869.44. The claim requested approval of the following costs:

- \$23,711.55 for Christopher Davis Law, comprising legal fees of \$19,048.40, disbursements of \$3,534.03, and GST of \$1,129.12.
- \$18,100.95 for Brown and Associates Planning Group, comprising consulting fees of \$16,979.00, disbursements of \$260.00, and GST of \$861.95.
- \$9,745.51 for Urban Systems Ltd., comprising consulting fees of \$8,486.68, disbursements of \$343.75, and GST of \$915.08.
- Attendance honoraria for Mr. Arnie Stefaniuk of \$50.00, disbursements of \$246.60, and GST of \$14.83

5.4.1 Christopher Davis Law

91. The costs claim for Christopher Davis Law relates to 73.51 hours of legal services performed by Mr. Christopher Davis and Mr. Peter Clark. The hours claimed for Mr. Davis relate to 16.20 hours for review of the applications, meeting with consultants and legal representation of other landowner groups, preparing and reviewing IRs and IR responses, and reviewing expert reports, 20 hours for attendance at the oral hearing, and 5.50 hours for preparation of final argument. The hours claimed for Mr. Clark relate to 31.81 hours for review of the application, consulting with other landowner groups, reviewing evidence, and review of information requests.

92. The Commission has assessed the costs claim for legal services provided by Christopher Davis Law. Considering the total number of hours claimed by both counsel for the tasks

described, the Commission finds that the hours claimed are reasonable and no reduction for use of junior counsel is warranted. The legal fees claimed are in accordance with the *Scale of Costs*. The Commission also finds the disbursements claimed for mileage and transcript costs are reasonable and in accordance with the *Scale of Costs*.

93. The Commission, therefore, approves recovery of costs for Christopher Davis Law in the total amount of \$23,711.55, which is comprised of \$19,048.40 in legal fees, disbursements of \$3,534.03 and GST of \$1,129.12.

5.4.2 Brown and Associates Planning Group

94. The costs claim for Brown and Associates Planning Group relates to the portion of the consulting fees claimed by Genesis Land Development Corporation. For the reasons set out in paragraph 26, the Commission reduces the consultant costs claimed by Genesis Land Development Corporation for Brown and Associates by 30 per cent.

95. The Commission also finds the disbursement claimed for land title searches to be reasonable and in accordance with the *Scale of Costs*.

96. The Commission, therefore, approves the claim for consulting services provided by Brown and Associates in the total amount of \$12,560.43, which is comprised of consulting fees of \$11,702.31, disbursements of \$260, and GST of \$598.12.

5.4.3 Urban Systems Ltd.

97. The costs claim for Urban Systems Ltd. relates to the portion of the consulting fees claimed by Genesis Land Development Corporation. For the reasons set out in paragraphs 29 and 30, the Commission reduces the consultant costs claimed for Urban Systems Ltd. by 15 per cent.

98. The Commission finds the disbursements claimed for purchasing digital aerial survey maps to be reasonable and in accordance with the *Scale of Costs*.

99. The Commission, therefore, approves the claim for consulting services in the total amount of \$7,719.48, comprised of consulting fees of \$7,008.13, disbursements of \$343.75, and GST of \$367.60.

5.4.4 Honoraria

100. The costs claim also requested attendance honoraria for Mr. Arnie Stefaniuk of \$50.00, disbursements for mileage of \$246.60, and GST of \$14.83. The Commission finds the claim to be in accordance with the *Scale of Costs*, with the exception of the mileage and the GST claimed.

101. The claim for mileage has been reduced to bring it in accordance with the *Scale of Costs*. Appendix A of Rule 009 states that GST cannot be claimed on honoraria or mileage. The claim for GST is disallowed.

102. The Commission, therefore, approves the claim for attendance honoraria totalling \$50, and the disbursement for mileage of \$56.58.

5.4.5 Total costs awarded

103. Accordingly, the Commission approves recovery of costs for the Genesis Land Development Corporation in the amount of \$44,098.04, comprised of legal fees of \$19,048.40, consulting fees of \$18,710.44, honoraria of \$50.00, disbursements of \$4,194.36, and GST of \$2,094.84.

5.5 The Eberley Group

104. David L. Campbell Professional Corporation submitted a costs claim on behalf of the Eberley group totalling \$113,181.58. The claim requested approval of the following costs:

- \$111,731.58 for David L. Campbell Professional Corporation comprising legal fees of \$102,410.00, disbursements of \$4,012.24 and GST of \$5,309.34.
- Honoraria for two participants totalling \$1,450.

5.5.1 David L. Campbell Professional Corporation

105. The cost claim for David L. Campbell Professional Corporation relates to 292.60 hours of legal services provided by Mr. David Campbell. The hours claimed for Mr. Campbell relate to 242.40 hours for review of the application, drafting IRs and reviewing IR responses, reviewing evidence, and preparing cross-examination, 24.30 hours for attendance at the hearing, and 25.90 hours for preparation of closing argument.

106. The Commission finds that the total of 292.60 hours claimed for legal counsel is excessive considering that the Eberley Group consisted of five individuals, that two of the individuals were co-owners of one of the residential parcels, the nature of the intervention, that no experts were retained, and that the issues in the proceeding were not complex. Further, the issue raised by the Eberley Group related to a limited portion of the alternate route. The Commission also took note of the legal fees claimed by other interveners who filed expert evidence and participated fully in the proceeding. For these reasons, the Commission reduces the legal fees claimed by 60 per cent. The legal fees are claimed in accordance with the *Scale of Costs*.

107. The Commission finds the disbursement claimed for mileage, photocopying, printing and transcripts to be reasonable and in accordance with the *Scale of Costs*.

108. The Commission, therefore, approves the claim for legal services in the total amount of \$47,213.73, which is comprised of legal fees of \$40,964.00, disbursements of \$4,012.24 and GST of \$2,237.49.

5.5.2 Honoraria

109. The Eberley group requested honoraria for Mr. Michael Eberley and Mr. Pilsum Master totalling \$1,450. The claim for Mr. Eberley is comprised of \$500 for forming an intervener group, and \$50.00 for attendance honorarium. The claim for Mr. Master is comprised of \$500.00 for forming a group and \$400.00 for attendance honoraria.

110. While the Commission finds the attendance honoraria claimed by Mr. Eberley and Mr. Master to be in accordance with the *Scale of Costs*, the Commission only allows one honoraria for forming a group.

111. The Commission, therefore, approves the claim for honoraria for Mr. Eberley and Mr. Master in the total amount of \$950.00, which is comprised of \$450 in attendance honoraria and \$500 for forming a group.

5.5.3 Total costs awarded

112. Accordingly, the Commission approves recovery of costs for the Eberley group in the total amount of \$48,163.73, which is comprised of \$40,964.00 in legal fees, \$950.00 in honoraria, disbursements of \$4,012.24, and GST of \$2,237.49.

5.6 The Legacy Group

113. The Legacy group submitted a costs claim totalling \$91,922.36. The claim requested approval for the following costs.

- \$64,410.26 for Wilson Laycraft Law, comprising legal fees of \$60,227.50, disbursements of \$1136.40, and GST of \$3,046.36
- \$27,512.10 for Brown and Associates Planning Group, comprising consulting fees of \$25,619.00, disbursements of \$583.00 and GST of \$1,310.10.

5.6.1 Wilson Laycraft Law

114. The costs claim for Wilson Laycraft Law relates to 183.20 hours of legal services performed by Mr. James Laycraft and Ms. Aimee Louie. The hours claimed for Mr. Laycraft relate to 54.10 hours for preparation, 39.25 hours for attendance at the oral hearing, and 3.75 for drafting the final argument. The hours claimed for Ms. Louie relate to 66.60 hours of preparation, and 19.50 hours for attendance at the oral hearing. The duties performed by legal counsel include review of the NID and facility applications, preparation and review of IRs and review of IR responses, meeting with clients, retained experts, and counsel for other intervenor groups, review of evidence and rebuttal submissions, and preparation for the hearing.

115. Given that the Legacy Group consisted of three land developers along 210 Avenue on the proposed alternate route, that one expert was retained, and that the issues were not complex, the Commission has determined that the need for two counsel was not warranted. Although separate tasks were performed by each counsel, there was some duplication. Consequently, the legal fees claimed for Ms. Louie are reduced by 15 per cent. The legal fees claimed are in accordance with the *Scale of Costs*. The Commission finds the disbursement claimed for mileage, photocopying, and external printing to be reasonable and in accordance with the *Scale of Costs*.

116. The Commission, therefore, approves the claim for legal services in the total amount of \$60,070.97, comprised of legal fees of \$56,094.70, disbursements of \$1,136.40, and GST of \$2,839.87.

5.6.2 Brown and Associates Planning Group

117. The costs claim for Brown and Associates Planning Group relates to the portion of the consulting fees claimed by the Legacy Group. For the reasons set out in paragraph 26, the Commission reduces the consultant's costs claimed by 30 per cent.

118. The Commission finds the disbursements claimed for land title searches and external printing to be reasonable and in accordance with the *Scale of Costs*.

119. The Commission, therefore, approves the claim for consulting services provided by Brown and Associates in the total amount of \$19,239.25, which is comprised of consulting fees of \$17,740.10, disbursements of \$583.00, and GST of \$916.15.

5.6.3 Total Costs Awarded

120. Accordingly, the Commission approves recovery of costs for the Legacy Group in the total amount of \$79,310.22, which is comprised of legal fees of \$56,094.70, consulting fees of \$17,740.10, disbursements of \$1,719.40, and GST of \$3,756.02.

5.7 Genstar Development Company-Walden, Genstar Development Company-Walden 3, Royop (Legacy) Development Ltd., Genstar Development Company- Rangeview

121. Brander Law submitted four separate costs claim on behalf of Genstar Development Company-Walden, Genstar Development Company -Walden 3, Royop (Legacy) Development Ltd., and Genstar Development Company-Rangeview. These costs claims are for two interveners that raised similar issues in relation to the proposed alternate route and were represented by the same legal counsel. Therefore, in this section the Commission makes its findings in relation to the total costs submitted for the two interveners.

122. Brander Law submitted a claim totalling \$88,399.14 for Genstar Development Company-Walden. The claim requested approval of the following costs:

- \$60,095.23 for Brander Law, comprising legal fees of \$54,355.00, disbursements of \$2,878.55, and GST of \$2,861.68.
- \$28,303.91 for Brown and Associates Planning Group, comprising consulting fees of \$26,217.76, disbursements of \$738.34 and GST of \$1,347.81.

123. Brander Law submitted a claim totalling \$34,607.95 for Genstar Development Company-Walden 3. The claim requested approval of legal fees of \$32,620.00, disbursements of \$339.95, and GST of \$1,648.00.

124. Brander Law submitted a claim totalling \$56,250.55 for Royop (Legacy) Development Ltd. The claim requested approval of the following costs:

- \$38,425.83 for Brander Law, comprising legal fees of \$33,775.00, disbursements of \$2,821.03, and GST of \$1,829.80.
- \$17,824.72 for Brown and Associates Planning Group, comprising consulting fees of \$16,715.92, disbursements of \$260.00 and GST of \$848.80.

125. Brander Law submitted a costs claim on behalf of Genstar Development Company-Rangeview totalling \$80,862.58. The claim requests approval of the following costs:

- \$57,709.90 for Brander Law, comprising legal fees of \$54,285.00, disbursements of \$676.81, and GST of \$2,748.09.
- \$14,154.18 for Brown and Associates Planning Group, comprising consultant fees of \$13,116.51, disbursements of \$363.66, and GST of \$674.01.

- \$8,998.50 for Urban Systems Ltd., comprising consulting fees of \$8,209.06, disbursements of \$360.94, and GST of \$428.50.

5.7.1 Brander Law

126. The costs claim for Brander Law relates to a total of 500.10 hours of legal services performed by Mr. Bruce Brander. The hours claimed are for the tasks of reviewing the NID and facility applications, drafting IRs and reviewing IR responses, drafting responses to IRs, drafting evidence, meeting with retained experts and counsel for other intervenor groups, and preparing for the hearing. Other than the drafting of information requests and presenting a different witness panel for Genstar Development Company and Royop (Legacy) Development Ltd., the tasks were performed for two intervenors who raised similar issues in relation to the proposed alternate route and the potential impacts of the alternate route on their lands.

127. Further, two experts were retained on behalf of these intervenors. The Commission took note of the legal fees claimed by legal counsel for other intervenors (land developers) on the alternate route which are set out in section 4 of this decision.

128. The hours claimed by Brander Law are much higher than those of other legal counsel considering that Brander Law represented two clients owning land in the same area as counsel for the other intervenors who owned land on the alternate route (land developers). The issues raised were not complex, and similar issues were raised for the land developers on the alternate route, including the potential impacts of the proposed alternate route on Genstar Development Company and Royop (Legacy) Development Ltd. No unique impacts or issues were raised by these intervenors that would support the awarding of the legal fees claimed by Brander Law. Further, there was cooperation amongst counsel for these intervenors and their experts.

129. For these reasons the Commission finds that the legal fees claimed are excessive and reduces the total legal fees by 60 per cent. The legal fees claimed are in accordance with the *Scale of Costs*. The Commission finds the disbursement claimed for mileage, external printing, courier fees and transcripts to be reasonable and in accordance with the *Scale of Costs*.

130. The Commission, therefore, approves the claim for legal services provided by Brander Law in the total amount of \$80,566.86, which is comprised of legal fees of \$70,014.00, disbursements of \$6,716.34, and GST of \$3,836.52.

5.7.2 Brown and Associates Planning Group

131. The costs claim for Brown and Associates Planning Group relates to the portion of consulting services provided to Genstar Development Company and Royop (Legacy) Development Ltd. For the reasons set out in paragraph 26, the Commission reduces the consultant fees claimed by 30 per cent.

132. The Commission finds the disbursements claimed for mileage, external printing, and land title searches to be reasonable and in accordance with the *Scale of Costs*.

133. The Commission, therefore, approves the claim for consulting services provided by Brown and Associates in the total amount of \$42,626.97, which is comprised of consulting fees of \$39,235.13, disbursements of \$1,362.00, and GST of \$2,029.84.

5.7.3 Urban Systems Ltd.

134. The costs claim for Urban Systems Ltd. relates to the portion of consulting provided to Genstar Development Company. For the reasons set out in paragraphs 29 and 30, the Commission reduces the costs claimed by Genstar Development Company for the Urban Systems Ltd. engineering report by 15 per cent.

135. The Commission, therefore, approves the claim for consulting services provided by Urban Systems Ltd. in the total amount of \$7,738.32 which is comprised of consulting fees of \$7,008.89, disbursements of \$360.94, and GST of \$368.49.

5.7.4 Total costs awarded

136. Accordingly, the Commission approves recovery of costs for Genstar Development Company and Royop (Legacy) Development Ltd. in the total amount of \$130,932.15, which is comprised of legal fees of \$70,014.00, consulting fees of \$46,244.02, disbursements of \$8,439.28, and GST of \$6,234.85.

6 GST

137. In accordance with the Commission's treatment of GST on cost awards, ENMAX is required to pay only that portion of GST paid by interveners that may not be recoverable through the GST credit mechanism. Accordingly, the Commission approves the eligible GST in the amount of \$32,840.79.

138. The Commission emphasizes that its treatment of the GST claimed in no way relieves participants or their consultants from their GST obligations pursuant to the *Excise Tax Act*, RSC 1985, c E-15.

7 Order

139. It is hereby ordered that:

- 1) ENMAX Power Corporation shall pay intervener costs to the Ollerenshaw/Soutzo group in the amount of \$158,819.55. Payment shall be made to Carscallen LLP, Attention: Michael Niven at 1500, 407 – 2nd Street SW, Calgary, Alberta T2P 2Y3.
- 2) ENMAX Power Corporation shall pay intervener costs to the Neighbours Against Overhead Lines in the amount of \$123,361.59. Payment shall be made to Prowse Chowne LLP, Attention: Don Mallon, 10020-101A Avenue, Edmonton, Alberta, T5J3G2.
- 3) ENMAX Power Corporation shall pay intervener costs to Brookfield Residential (Alberta) LP in the amount of \$109,529.19. Payment shall be made to McLennan Ross LLP, Attention: Gavin Fitch at 1600 Stock Exchange Tower, 300 – 5th Avenue SW, Calgary, Alberta T2P 3C4.
- 4) ENMAX Power Corporation shall pay intervener costs to the Genesis Land Development Corporation in the amount of \$44,098.04. Payment shall be made to

- Christopher Davis Law, Attention: Christopher Davis, 315A 39th Avenue SE,
Calgary, Alberta, T2G 1X5.
- 5) ENMAX Power Corporation shall pay intervener costs to the Eberley Group in the amount of \$48,163.73. Payment shall be made to David L. Campbell Professional Corporation, Attention: David Campbell, 110 304 Third Avenue, Trathmore, Alberta T1P 1Z1.
 - 6) ENMAX Power Corporation shall pay intervener costs to the Legacy group in the amount of \$79,310.22. Payment shall be made to Wilson Laycraft Law, Attention: James B. Laycraft, Suite 1601, 333 – 11th Avenue SW, Calgary, Alberta T2R 1L9.
 - 7) ENMAX Power Corporation shall pay intervener costs to Genstar Development Company and Royop (Legacy) Development Ltd. in the amount of \$130,932.15. Payment shall be made to Brander Law, Attention: Bruce Brander, 3861 Brighton Drive NW, Calgary, Alberta T2L 1G7.

Dated on March 7, 2016.

Alberta Utilities Commission

(original signed by)

Anne Michaud
Commission Member

(original signed by)

Tudor Beattie, QC
Commission Member

(original signed by)

Kate Coolidge
Acting Commission Member