



AltaLink Management Ltd.

**South and West of Edmonton Area Transmission
Development Project-Harry Smith Development**

**Advance Funding Request from the Pioneer
Road Group**

Advance Funding Award

April 13, 2016

Alberta Utilities Commission

Decision 21446-D01-2016

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South and West of Edmonton Area Transmission Development Project-

Harry Smith Development

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1 Introduction

1. In this decision the Alberta Utilities Commission considers an application for advance funding by the Pioneer Road Group (PRG) for Proceeding 20987 (the advance funding application). The Commission approved advance funding for PRG in the amount of \$64,196.00 for the reasons that follow.

2. In Proceeding 20987 the Commission will consider an application by AltaLink Management Ltd. (AltaLink) for approval to construct the Harry Smith 367S Substation and associated transmission facilities (the project) which forms a part of the South and West Edmonton Area Transmission Development Project. An oral hearing where the Commission will consider AltaLink's applications to construct and operate the project will be held in Edmonton on May 10, 2016.

3. PRG submitted the advance funding application on March 21, 2016. The Commission assigned Proceeding 21446 and Application 21446-A001 to the advance funding application. PRG submitted an amendment to the advance funding application on March 30, 2016.

4. AltaLink submitted comments with respect to PRG's advance funding application, as amended, on March 30, 2016.

5. The Commission considers the close of record for this proceeding to be March 30, 2016.

2 Advance funding application

6. In the advance funding application, PRG advised that it had retained two experts to address issues identified by that group as being relevant to Proceeding 20987. The application included a proposed budget in accordance with the Scale of Costs under Rule 009: *Rules on Local Intervener Costs* (Rule 009) for amounts totalling \$139,257.00. The table below summarizes the experts retained by PRG, the issues that each expert will address and the total budget for their respective services inclusive of fees, disbursements and GST:

| Expert | Issue | Budget |
|-------------------------|------------------|---------------|
| Berrien Associates Ltd. | Routing | \$23,310.00 |
| AirTrav Inc. | Airport Location | \$37,092.00 |

7. Berrien Associates Ltd. was retained to provide expert evidence on the routing of the project. AirTrav Inc. was retained to provide an expert opinion on the issue of the project's proximity to an airport.
8. PRG also estimated Ackroyd LLP's legal costs to be \$78,855.00 for its assistance in PRG's intervention in Proceeding 20987.
9. PRG advised that it is an intervener group comprised of families and landowners located along the alternate route of the project. PRG emphasized its need for financial assistance in order to fully participate in Proceeding 20987 given the scope of the fees and costs involved in retaining the necessary legal counsel and experts to address the issues in the proceeding.
10. PRG requested that the Commission order an advance of 50 per cent of the projected legal and consultant fees, disbursements and GST in the sum of \$69,629.00.

2.1 Views of AltaLink

11. AltaLink objected to some of the amounts claimed for AirTrav Inc. AltaLink submitted that the rates shown in the advance funding application for AirTrav Inc. exceed the prescribed rates under Rule 009. AltaLink also submitted that the travel time shown in the estimated budget is shown at the expert's full rate instead of 50 per cent as provided for in Rule 009. Further, the items noted as 'travel arrangements' and 'file flow' appear to be support staff costs, which should be charged at \$45 per hour rather than at the consultants' hourly rates.

3 Commission's authority to award advance funding

12. In assessing a costs claim pursuant to Section 21 of the *Alberta Utilities Commission Act*, SA 2007, c. A-37.2, the Commission applies Rule 009.
13. Sections 2 and 3 of Rule 009, set out the Commission's authority to award advance funding.

2. Advance of Funds Request

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 B.

2.2 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.

2.3 If the Commission awards an advance of funds to a local intervener under Section 2.2, the Commission may

2.3.1 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

2.3.2 direct the applicant to advance funds to the local intervener and set out the terms of repayment for the advance to the applicant by the intervener

4 Advance funding application

14. In its standing ruling in Proceeding 20987, the Commission determined that some members of PRG have rights that may be directly and adversely affected by the Commission's decision on the project. The Commission finds that PRG qualifies as a "local intervener" pursuant to Section 22 of the *Alberta Utilities Commission Act* and therefore may claim costs and is eligible for advance funding, on behalf of its respective members who own or reside upon lands within 800 metres of the project under Rule 009.

15. The Commission is further satisfied that PRG has demonstrated a need for financial assistance to address relevant issues and that it may be unable to contribute effectively and efficiently in Proceeding 20987 without advance funding.

16. In accordance with Section 2 of Rule 009, the Commission has considered the nature of Proceeding 20987, the submissions of PRG including the description of proposed expert evidence and legal assistance, the associated budget and submissions on the need for financial assistance. The Commission has also considered the submissions of AltaLink.

17. Historically, when the Commission has approved an award of advance funding it has awarded between 30 and 60 per cent of an intervener's projected costs. PRG has requested advance funding of 50 per cent of its budgeted costs of \$69,629.00. AltaLink has not objected to an advance funding award of 50 percent provided that any amount awarded is in accordance with the Scale of Costs prescribed by Rule 009.

18. In light of the above considerations, the Commission has determined that an award of advance funding is warranted in order for PRG to represent its interests before the Commission.

19. The Commission has reviewed the advanced funding application and determined that some of the amounts claimed for AirTrav Inc. exceed the Scale of Costs. The Commission has adjusted the amounts claimed for AirTrav Inc. to be in accordance with the Scale of Costs.

20. The Commission finds an advance funding award of 50 per cent of the estimated legal and consulting fees for Ackroyd LLP, Berrien Associates Ltd. and AirTrav Inc. is warranted. Accordingly, for the above reasons, the Commission awards advance funding to PRG in the total amount of \$64,196.00.

21. The Commission emphasizes that the advance funding approved in this decision is subject to adjustment when final costs applications are made and a costs decision is issued following completion of Proceeding 20987. In making an advance funding award, the Commission makes no determination respecting the value of PRG's participation in the proceeding, the weight that may be attributed by the Commission to the evidence provided by its consultants, the merits of legal arguments that may be made or the amount of any final costs award that the Commission may issue.

22. If PRG accepts the advance funding awarded pursuant to this decision and the final costs award for PRG relating to Proceeding 20987 is less than the amount of the advance funding directed in this decision, PRG will be required to repay the difference.

23. All fees and disbursements eventually claimed by any interested party following the conclusion of a proceeding must conform to the Scale of Costs adopted by the Commission. Any interested party claiming costs exceeding the Scale of Costs will be required to provide evidence that the scale is inadequate. In assessing costs, the Commission will consider the effectiveness of the participation by each interested party and whether the costs of the participation were reasonable and directly and necessarily related to the proceeding.

5 Order

24. It is hereby ordered that:

- 1) AltaLink Management Ltd. shall pay advance funding in the amount of \$64,196.00 to the Pioneer Road Group. Payment shall be made to Ackroyd LLP, attention: Mr. Richard Secord at 1500 First Edmonton Place, 10665 Jasper Avenue, Edmonton, Alberta, T5J 3S9.

Dated on April 13, 2016.

Alberta Utilities Commission

(original signed by)

Tudor Beattie, QC
Panel Chair