



**AltaLink Management Ltd.**

**South and West of Edmonton Transmission Development  
Harry Smith Development**

**Costs Award**

**September 21, 2016**



**Alberta Utilities Commission**

Decision 21691-D01-2016

AltaLink Management Ltd.

South and West of Edmonton Area Transmission Development

Harry Smith Development

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Proceeding 21691

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**Calgary, Alberta**

**AltaLink Management Ltd.**  
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**Harry Smith Development**  
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**1 Introduction**

1. In this decision the Alberta Utilities Commission considers applications by the Pioneer Road Group (PRG) and the Parkland Airport Development Corporation (PADC) for approval and payment of their costs of participation in Proceeding 20987 (the costs applications). The costs claimed and costs awarded are provided in the following table:

Claimant	Total Fees/Honoraria Claimed	Total Disbursements Claimed	Total GST Claimed	Total Amount Claimed	Total Fees/Honoraria Awarded	Total Disbursements Awarded	Total GST Awarded	Total Amount Awarded
PRG								
Ackroyd LLP	\$57,502.50	\$2,374.28	\$2,992.23	\$62,869.01	\$57,502.50	\$2,374.28	\$2,992.23	\$62,869.01
Berrien Associates Ltd.	\$18,957.50	\$484.22	\$956.42	\$20,398.14	\$16,113.88	\$484.22	\$814.17	\$17,412.27
Airtrav Inc.	\$30,832.75	\$0.00	\$4,008.26	\$34,841.01	\$22,659.30	\$0.00	\$2,945.71	\$25,605.01
Ken Lewis	\$100.00	\$49.50	\$2.48	\$151.98	\$100.00	\$49.50	\$2.48	\$151.98
Margaret Trueman	\$100.00	\$0.00	\$0.00	\$100.00	\$100.00	\$0.00	\$0.00	\$100.00
Jacque Netzlaff	\$100.00	\$0.00	\$0.00	\$100.00	\$100.00	\$0.00	\$0.00	\$100.00
Lorraine Ross	\$100.00	\$6.19	\$0.31	\$106.50	\$100.00	\$6.19	\$0.31	\$106.50
Total	\$107,692.75	\$2,914.19	\$7,959.70	\$118,566.64	\$96,675.68	\$2,914.19	\$6,754.90	\$106,344.77
<b>Advanced Costs Awarded</b>								\$64,196.00
<b>Balance of Total Amount Awarded</b>								\$42,148.77
PADC								
Carscallen LLP	\$60,147.00	\$3,210.26	\$3,157.72	\$66,514.98	\$60,147.00	\$3,210.26	\$3,157.72	\$66,514.98
JetPro Consultants Inc.	\$14,105.00	\$0.00	\$672.88	\$14,777.88	\$13,338.50	\$0.00	\$666.93	\$14,005.43
Total	\$74,242.00	\$3,210.26	\$3,830.60	\$81,292.86	\$73,485.50	\$3,210.26	\$3,824.65	\$80,520.41
<b>Total Amount Claimed and Awarded</b>				<b>\$199,859.50</b>				<b>\$122,669.18</b>

2. The Commission has awarded reduced costs to the PRG and PADC for the reasons set out below.

3. Proceeding 20987 (the original proceeding) was convened by the Commission to consider applications filed by AltaLink Management Ltd. to construct and operate the South and West of Edmonton Area Transmission Development-Harry Smith Development (the project). The original proceeding involved information requests and responses, written and oral evidence, an oral hearing, cross-examination and oral argument and reply argument. The close of record

for the original proceeding was May 12, 2016 and the Commission issued Decision 20987-D01-2016 on July 28, 2016.<sup>1</sup>

4. The PRG submitted its costs claim application on June 7, 2016 within the 30 day timeline permitted by the Commission's rules. The Commission assigned Proceeding 21691 and Application 21691-A001 to the costs claim application.

5. PADC originally submitted its costs claim application within the 30 day timeline permitted by the Commission's rules on the record of Proceeding 20987 on June 13, 2016. PADC's costs claim application was subsequently transferred to Proceeding 21691 and was assigned Application 21691-A002.

6. On June 23, 2016, AltaLink submitted comments with respect to both the PRG's and PADC's costs claim applications.

7. On June 28, 2016 and July 4, 2016 the PRG and PADC, respectively, replied to AltaLink's comments on their costs claim applications.

8. The Commission considers the close of record for this proceeding to be July 4, 2016, the date upon which the final submission on the cost claim applications was received.

## 2 Commission findings

9. Only "local interveners" are eligible to claim costs in facility related applications. The Commission's authority to award costs for the participation of a local intervener in a hearing or other proceeding 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* is found in sections 21 and 22 of the *Alberta Utilities Commission Act*. When considering a claim for costs for a facilities proceeding, the Commission is also guided by the factors set out in Section 7 of Rule 009: *Rules on Local Intervener Costs* (Rule 009) and will 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. Appendix A of Rule 009 prescribes a Scale of Costs applicable to all costs claimed.

10. Section 22 of the *Alberta Utilities Commission Act* defines what a "local intervener" is and states:

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

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<sup>1</sup> Decision 20987-D01-2016: AltaLink Management Ltd. South and West of Edmonton Area Transmission Development Harry Smith Development, Proceeding 20987, July 28, 2016.

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 a gas utility pipeline.

## 2.1 Pioneer Road Group

11. Members of the PRG own property located within 800 meters of the project. Given the proximity of the PRG members' properties to the project, the Commission, in the original proceeding, found that the PRG's members may be directly and adversely affected by the project and therefore the PRG's members were granted standing in the original proceeding. Given that the members of PRG have an interest in, and are entitled to, occupy land, that may be directly and adversely affected by the project, the Commission finds that the PRG may claim costs as a local intervener under Rule 009.

12. The following table summarizes the PRG's cost claim:

Claimant	Hours			Fees	Disbursements	GST	Total
	Preparation	Attendance	Argument				
PRG							
Ackroyd LLP	130.80	46.00	11.70	\$57,502.50	\$2,374.28	\$2,992.23	\$62,869.01
Berrien Associates Ltd.	75.50	14.80	0.00	\$18,957.50	\$484.22	\$956.42	\$20,398.14
Airtrav Inc.	80.27	4.97	0.00	\$30,832.75	\$0.00	\$4,008.26	\$34,841.01
Ken Lewis	0.00	0.00	0.00	\$100.00	\$49.50	\$2.48	\$151.98
Margaret Trueman	0.00	0.00	0.00	\$100.00	\$0.00	\$0.00	\$100.00
Jacque Netzlaff	0.00	0.00	0.00	\$100.00	\$0.00	\$0.00	\$100.00
Lorraine Ross	0.00	0.00	0.00	\$100.00	\$6.19	\$0.31	\$106.50
Total	286.57	65.77	11.70	\$107,692.75	\$2,914.19	\$7,959.70	\$118,566.64

13. The Commission finds that the PRG acted responsibly in the original proceeding and contributed to the Commission's understanding of the relevant issues. However, the Commission is unable to approve the full amount of the costs claimed in respect of the services performed by AirTrav Inc. and Berrien Associates Ltd. for the reasons set out below.

### Ackroyd LLP

14. The PRG was represented by Ackroyd LLP in the original proceeding. The fees claimed by the PRG for the legal services provided by Mr. Richard Secord, Mr. Yuk-Sing Cheng and Mr. Ian McDougall relate to reviewing the application, drafting information requests (IRs), reviewing IR responses, corresponding with retained experts and landowners, conducting research, preparing for and attending the hearing, and preparing argument.

15. The Commission finds that the services performed by Mr. Secord, Mr. Cheng and Mr. McDougall were directly and necessarily related to the PRG's participation in the original proceeding, and that the fees and disbursements claimed in accordance with the Scale of Costs for those services were reasonable. Accordingly, the Commission approves the PRG's claim for legal fees for Ackroyd in the amount of \$57,502.50, disbursements for meals, transcript costs, postage, phone and photocopying of \$2,374.28 and GST of \$2,992.23 for a total of \$62,869.01.

### **Berrien Associates Ltd.**

16. Berrien Associates Ltd. was retained by the PRG to perform consulting services in the original proceeding. The fees claimed by the PRG for the consulting services provided by Mr. Robert Berrien relate to reviewing the application, inspecting the various route options, drafting IRs, reviewing IR responses, drafting a report on the proposed routes, and preparing for and attending the oral hearing. Of the 90.30 hours claimed in the application, 13.50 hours were claimed for the services provided by support staff.

17. In its comments, AltaLink submitted that the members of the PRG own or reside on lands in the vicinity of the preferred variant route for the project and except for Mr. Lewis, the members of the PRG do not own or reside on lands adjacent to the Parkland Airport. AltaLink further submitted that both AirTrav and Mr. Berrien commented on the potential impacts of the project to the Parkland Airport, which was duplicative of the evidence provided by PADC.

18. In its response to AltaLink's comments, the PRG explained that it was adverse in interest to PADC and, thus, it was difficult to see how the PRG could rely on PADC's position and evidence. The PRG further argued that different analyses and conclusions were reached by the various experts retained by the parties.

19. While the Commission finds that the services performed by Mr. Berrien were directly and necessarily related to the PRG's participation in the original proceeding, it finds that the fees claimed for these services were excessive for the following reasons. Mr. Berrien presented evidence relating to the Parkland Airport and potential impacts to its operations that extended beyond his area of expertise as a routing consultant. Further, Mr. Berrien's evidence was also of limited assistance to the Commission in making its decision on the applications in question because he focused on an underground option that was not an applied for route alternative in the original proceeding. Accordingly, the Commission will reduce the fees of Berrien Associates by 15 per cent and approves the PRG's claim for consulting fees for Berrien Associates in the amount of \$16,113.88, disbursements of \$484.22 and GST of \$814.17 for a total of \$17,412.27.

### **AirTrav Inc.**

20. AirTrav Inc. was retained by the PRG to perform consulting services in the original proceeding. The fees claimed by the PRG for the consulting services provided by Mr. Robert Kokonis and Mr. Charles Cormier relate to reviewing the application, drafting the AirTrav expert report, drafting and reviewing IRs, drafting IR responses to the AUC, and preparing for and testifying at the oral hearing. 1.50 hours were claimed by Ms. Tuija Anttonen for file flow and scheduling.

21. The fees claimed by Mr. Robert Kokonis and Mr. Charles Cormier have not been claimed in accordance with the Scale of Costs. Supporting invoices from Airtrav indicates that Mr. Kokonis provided consulting services at hourly rates of \$475.00 and \$397.50, and Mr. Cormier provided consulting services at hourly rates of \$375.00 and \$320.00. The Commission's Scale of Costs currently limits recovery of costs for consultants with more than 12 years of experience to \$270.00 an hour.

22. The PRG explained that the expert witnesses from AirTrav who worked on this matter are experienced, well known, and well regarded in their fields of expertise.

23. As noted above, AltaLink submitted that the members of the PRG own or reside on lands in the vicinity of the preferred variant route for the project and except for Mr. Lewis, the members of the PRG do not own or reside on lands adjacent to the Parkland Airport. AltaLink further submitted that both AirTrav and Mr. Berrien commented on the potential impacts of the project to the Parkland Airport, which was duplicative of the evidence provided by PADC.

24. AltaLink further submitted that AirTrav assessed the potential impacts to the Parkland Airport using an incorrect edition of the applicable Transport Canada standards, which lengthened and increased the costs of the original proceeding. AltaLink further contended that the PRG has not explained why two experts were required to prepare the AirTrav report, or why two experts were required to participate in the hearing.

25. In its response to AltaLink's comments, the PRG explained that it was adverse in interest to PADC and, thus, it was difficult to see how the PRG could rely on PADC's position and evidence. The PRG further argued that different analyses and conclusions were reached by the various experts retained by the parties.

26. The PRG further submitted that the invoices and documentation supplied with regard to AirTrav showed that work was divided and distributed among staff members at AirTrav in the preparation of the AirTrav report and that the distribution of work kept costs more economical. Further, each witness provided professional experience and expertise in areas that were not matched by the other witnesses.

27. The PRG noted that AirTrav provided responses under cross-examination as to the difference between the applicable Transport Canada standards and why AirTrav undertook the analysis it did.

28. Finally, the PRG submitted that it had previously acknowledged that the rates charged by AirTrav exceeded the amounts allowed by the Scale of Costs, and had requested that the Commission award the professional fees as set out in its costs claim.

29. While the Commission finds that the services performed by Mr. Kokonis and Mr. Cormier were directly and necessarily related to the PRG's participation in the original proceeding, the reasons provided by the PGR for why fees exceeded the Scale of Costs are not sufficient to warrant the hourly rates claimed by AirTrav given the complexity of the issues raised in the original proceeding. Accordingly, the amounts associated with Mr. Kokonis' and Mr. Cormier's fees have been adjusted to bring them into conformity with the Scale of Costs. Similarly, the fees claimed for Ms. Anttonen have been reduced to \$45.00 per hour because they appear to relate to administrative matters. This adjustment decreases the original amount claimed by \$8,173.45 and results in a new total of \$22,659.30 in fees for the services provided.

30. The Commission accepts the explanation given by the PRG as to why two experts, Mr. Kokonis and Mr. Cormier, prepared the AirTrav report. The Commission finds the division of work between Mr. Kokonis and Mr. Cormier to be reasonable and therefore considers that it was also reasonable for both to testify at the hearing.

31. The costs claimed for AirTrav also requested recovery of HST in the amount of \$4,008.26. This amount has been adjusted to \$2,945.71 to reflect the adjusted fees.

32. Accordingly, the Commission approves the PRG’s claim for consulting fees for AirTrav Inc. in the amount of \$22,659.30 and HST of \$2,945.71 for a total of \$25,605.01.

### Intervener Costs

33. The costs claim included a claim for attendance honoraria for Mr. Ken Lewis, Ms. Jacquie Netzlaff, Ms. Lorraine Ross, and Ms. Margaret Trueman totalling \$400.00, disbursements of \$55.69 and GST of \$2.79.

34. The claim for attendance honoraria is in accordance with the Scale of Costs and is approved by the Commission.

35. The disbursements for mileage and meals claimed are also approved because the amounts claimed are in accordance with the Scale of Costs and the Commission considers the expenses to be reasonable.

36. The Commission, therefore, approves the claim for honoraria in the total amount of \$400.00, disbursements of \$55.69 and GST of \$2.79.

### Total amount awarded

37. Accordingly, the Commission approves the PRG’s claim for recovery of costs in the total amount of \$106,344.77. This amount is composed of legal fees of \$57,502.50, consulting fees of \$38,773.18, honoraria of \$400.00, disbursements of \$2,914.19 and GST of \$6,754.90, less the \$64,196.00 awarded as advance funding in Decision 21446-D01-2016,<sup>2</sup> leaving a balance of \$42,148.77.

## 2.2 Parkland Airport Development Corporation

38. Given the proximity of PADC’s property to the project, the Commission, in the original proceeding, found that it may be directly and adversely affected by the project and, therefore granted it granted standing. Given that PADC has an interest in, and is entitled to, occupy land, that may be directly and adversely affected by the project, the Commission finds that PADC may claim costs as a local intervener under Rule 009.

39. The following table summarizes PADC’s cost claim:

Claimant	Hours			Fees	Disbursements	GST	Total
	Preparation	Attendance	Argument				
PADC							
Carscallen LLP	193.80	21.70	4.30	\$60,147.00	\$3,210.26	\$3,157.72	\$66,514.98
JetPro Consultants Inc.	80.60	0.00	0.00	\$14,105.00	\$0.00	\$672.88	\$14,777.88
Total	274.40	21.70	4.30	\$74,242.00	\$3,210.26	\$3,830.60	\$81,292.86

<sup>2</sup> Decision 21146-D01-2016: 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, Proceeding 21146, Application 21146-A001, April 13, 2016.

40. The Commission finds that PADC acted responsibly in the original proceeding and contributed to the Commission's understanding of the relevant issues. However, the Commission is unable to approve the full amount of the costs claimed in respect of the services performed by JetPro Consultants Inc. for the reasons set out below.

### **Carscallen LLP**

41. PADC was represented by Carscallen LLP in the original proceeding. The fees claimed by PADC for the legal services provided by Mr. Michael Niven, Mr. Nicholas Ramessar, Mr. Ryan Barata and Ms. Winta Asefaw relate to reviewing the original applications, corresponding with retained experts, drafting IRs to AltaLink, reviewing IR responses and expert reports, preparing for and attending the oral hearing, and drafting cross-examination questions. In addition, 5.60 hours for travel were claimed at half of Mr. Ramessar's hourly rate.

42. In its comments, AltaLink submitted that the quantum of legal costs claimed by PADC appears high, given that only two landowners were represented and the issues were not complex.

43. PADC disagreed with AltaLink's view regarding the quantum of legal fees and stated that it would not have had to participate in the proceeding had AltaLink not proposed to route a transmission line within 20 metres of the Parkland Airport. PADC also submitted that the issues in the proceeding were complex due to the potential impacts of the project on the Parkland Airport's certification with Transport Canada.

44. The Commission finds that that the services performed by Carscallen were directly and necessarily related to PADC's participation in the original proceeding, and that the fees and disbursements, which were claimed in accordance with the Scale of Costs for those services, were reasonable. Given the scope of PADC's participation in the original proceedings, the Commission finds these fees to be reasonable. Accordingly, the Commission approves the PADC's claim for legal fees for Carscallen in the amount of \$60,147.00, disbursements for accommodation, meals, mileage and photocopying of \$3,210.26 and GST of \$3,157.72 for a total of \$66,514.98.

### **JetPro Consultants Inc.**

45. JetPro Consultants Inc. was retained by PADC to perform consulting services in the original proceeding. The fees claimed by PADC for the consulting services provided by Mr. Edward McDonald, Mr. Henry Graham and Mr. Chris Davison relate to reviewing the application, corresponding with retained experts, drafting IRs, and presenting and preparing evidence.

46. AltaLink contended that, despite agreeing on the applicable Transport Canada standard, JetPro assessed the potential impacts to the Parkland Airport using an incorrect edition of the applicable Transport Canada standard, which complicated and lengthened the proceeding. AltaLink also noted that the hourly rates and fees claimed for Mr. Graham of JetPro exceed the Scale of Costs.

47. PADC denied AltaLink's allegation that JetPro presented irrelevant evidence which added to the length of the hearing, citing that AltaLink's alternate route would impact the Parkland Airport's ability to comply with the current edition of the applicable Transport Canada standard, and that this had a potential adverse impact to PADC. PADC argued that it was

justified in bringing evidence of this impact before the Commission. PADC also agreed that Mr. Graham's hourly rate should have been billed at \$160.00 per hour in accordance with Rule 009 and asked that the Commission adjust any costs award accordingly.

48. The Commission finds that the services performed by JetPro were directly and necessarily related to PADC's participation in the original proceeding and has adjusted the hourly fees to bring them into accord with the Scale of Costs. This adjustment decreases the original amount claimed by \$766.50 and results in a new total of \$13,338.50 for the services provided.

49. With respect to the value of the evidence provided by JetPro, the Commission finds that JetPro assisted the Commission in understanding the issues in the original proceeding and is not persuaded by AltaLink's submission that JetPro's evidence complicated and lengthened the proceeding.

50. Accordingly, the Commission approves PADC's claim for consulting fees for JetPro in the amount of \$13,338.50 and GST of \$666.93 for a total of \$14,005.43.

### **Total amount awarded**

51. Accordingly, the Commission approves PADC's claim for recovery of costs in the total amount of \$80,520.41. This amount is composed of legal fees of \$60,147.00, consulting fees of \$13,338.50, disbursements of \$3,210.26 and GST of \$3,824.65.

### **3 Order**

52. It is hereby ordered that:

- 1) AltaLink Management Ltd. shall pay intervener costs to the Pioneer Road Group in the amount of \$106,344.77 less the advanced funding amount of \$64,196.00 awarded in Decision 21446-D01-2016, leaving a balance of \$42,148.77.
- 2) AltaLink Management Ltd. shall pay intervener costs to Parkland Airport Development Corporation in the amount of \$80,520.41.

Dated on September 21, 2016.

### **Alberta Utilities Commission**

*(original signed by)*

Neil Jamieson  
Commission Member