



ATCO Electric Ltd.

Hughes 2030S Substation

Costs Award

June 9, 2017

Alberta Utilities Commission

Decision 22406-D01-2017

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Proceeding 22406

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1 Introduction

1. In this decision the Alberta Utilities Commission considers applications (the costs claim applications) from five interveners and intervener groups for approval and payment of their costs of participation in Proceeding 21761¹ (the original proceeding). The costs claimed and costs awarded are provided in the following table:

Claimant	Total Fees Claimed	Total Disbursements Claimed	Total GST Claimed	Total Amount Claimed	Total Fees Awarded	Total Disbursements Awarded	Total GST Awarded	Total Amount Awarded
The Andreiuks								
Stringam LLP	\$14,679.00	\$2,101.38	\$839.02	\$17,619.40	\$13,399.00	\$2,101.38	\$775.02	\$16,275.40
Honorarium	\$200.00	\$0.00	\$0.00	\$200.00	\$200.00	\$0.00	\$0.00	\$200.00
Total	\$14,879.00	\$2,101.38	\$839.02	\$17,819.40	\$13,599.00	\$2,101.38	\$775.02	\$16,475.40
Mr. Gregory Sears								
Stringam LLP	\$10,128.00	\$48.95	\$508.85	\$10,685.00	\$8,848.00	\$48.95	\$444.85	\$9,341.80
Honorarium	\$200.00	\$0.00	\$0.00	\$200.00	\$200.00	\$0.00	\$0.00	\$200.00
Total	\$10,328.00	\$48.95	\$508.85	\$10,885.00	\$9,048.00	\$48.95	\$444.85	\$9,541.80
Mr. Chester Groner								
Honorarium	\$5,200.00	\$0.00	\$0.00	\$5,200.00	\$5,200.00	\$0.00	\$0.00	\$5,200.00
Total	\$5,200.00	\$0.00	\$0.00	\$5,200.00	\$5,200.00	\$0.00	\$0.00	\$5,200.00
The Halwas and Pelsters								
KMSC Law	\$19,409.00	\$1,077.45	\$1,018.82	\$21,505.27	\$16,000.00	\$540.77	\$827.04	\$17,367.81
Honorarium	\$925.00	\$27.00	\$47.60	\$999.60	\$150.00	\$27.00	\$1.35	\$178.35
Total	\$20,334.00	\$1,104.45	\$1,066.42	\$22,504.87	\$16,150.00	\$567.77	\$828.39	\$17,546.16
Mr. Ward Sallis								
Prowse Chowne LLP	\$46,368.00	\$3,816.41	\$2,509.23	\$52,693.64	\$39,088.00	\$3,448.42	\$2,126.83	\$44,663.25
Aquality Environmental Consulting	\$16,380.00	\$1,008.44	\$868.90	\$18,257.34	\$16,380.00	\$1,008.44	\$868.90	\$18,257.34
Veritas Litigation Support	\$3,790.50	\$1,475.00	\$263.28	\$5,528.78	\$2,745.00	\$1,475.00	\$211.00	\$4,431.00
Honoraria	\$500.00	\$0.00	\$0.00	\$500.00	\$200.00	\$0.00	\$0.00	\$200.00
Total	\$67,038.50	\$6,299.85	\$3,641.41	\$76,979.76	\$58,413.00	\$5,931.86	\$3,206.73	\$67,551.59
Total amounts claimed and awarded				\$133,389.03				\$116,314.95

2. The Commission has awarded reduced costs to the applicants for the reasons set out below.

¹ Proceeding 21761, Alberta Electric System Operator Needs Identification Document Application and ATCO Electric Ltd. Facility Applications Hughes 2030S Substation.

3. The original proceeding was convened by the Commission to consider ATCO Electric Ltd.'s (ATCO Electric) application to construct a new 144/25-kilovolt point-of-delivery substation and a new 144-kV double-circuit transmission line in the Grande Prairie area (the project). The original proceeding involved information requests (IRs), IR responses, evidence and an oral hearing. The close of record for the original proceeding was January 18, 2017 and the Commission issued Decision 21761-D01-2017 on May 8, 2017.²

4. The Andreiuks and Mr. Gregory Sears submitted their costs claim application on February 9, 2017, within the 30 day timeline permitted by the Commission's rules. The Commission assigned Proceeding 22406 and Application 22406-A001 to the costs claim application. The claims from Mr. Chester Groner on behalf of himself and Ms. Nina Wathen, Mr. Ward Sallis and the Halwas and the Pelsters were likewise received within the 30 day timeline permitted by the Commission's rules.

5. ATCO Electric filed submissions in respect of the costs claimed on February 27, 2017 and reply comments were received from parties by March 13, 2017.

6. The Commission considers the close of record for this proceeding to be March 13, 2017, the date on which the final submissions on the cost claims were received.

7. In reaching the determinations set out in this decision, the Commission has considered all relevant materials comprising the record of this proceeding, including the evidence, argument, and reply argument provided by each party. Accordingly, references in this decision to specific parts of the record are intended to assist the reader in understanding the Commission's reasoning relating to a particular matter and should not be taken as an indication that the Commission did not consider all relevant portions of the record with respect to that matter.

2 Commission findings

8. 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 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 AUC Rule 009: *Rules on Local Intervener Costs* (Rule 009) and the Scale of Costs found in Appendix A of Rule 009.

9. 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

² Decision 21761-D01-2017: Alberta Electric System Operator Needs Identification Document Application and ATCO Electric Ltd. Facility Applications Hughes 2030S Substation, Proceeding 21761, May 8, 2017.

(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 a gas utility pipeline.

10. The cost claimants all own or reside on property located within 800 metres of the project. Given the proximity of their property to the project, the Commission is satisfied that they have an interest in, and are entitled to occupy, land that may have been directly and adversely affected by the Commission’s decision on ATCO Electric’s application. Accordingly, the Commission finds that the Andreiuks, Groners, Pelsters, Halwas, Mr. Sears and Mr. Sallis are all local interveners.

2.1 The Andreiuks and Mr. Gregory Sears

11. The following table summarizes the Andreiuks’ and Mr. Sears’ cost claim for the original proceeding:

Claimant	Hours			Fees	Disbursements	GST	Total
	Preparation	Attendance	Argument				
The Andreiuks							
Stringam LLP	37.15	7.60	0.40	\$14,679.00	\$2,101.38	\$839.02	\$17,619.40
Honorarium	0.00	0.00	0.00	\$200.00	\$0.00	\$0.00	\$200.00
Total	37.15	7.60	0.40	\$14,879.00	\$2,101.38	\$839.02	\$17,819.40
Mr. Gregory Sears							
Stringam LLP	23.65	7.60	0.40	\$10,128.00	\$48.95	\$508.85	\$10,685.80
Honorarium	0.00	0.00	0.00	\$200.00	\$0.00	\$0.00	\$200.00
Total	23.65	7.60	0.40	\$10,328.00	\$48.95	\$508.85	\$10,885.00

Stringam LLP

12. The Andreiuks and Mr. Sears were represented by Stringam LLP in the original proceeding. Legal services provided by Mr. Patrice Brideau and Mr. Darryl Carter relate to reviewing the application, corresponding with clients, drafting information requests, reviewing responses, research and preparing for and attending the hearing.

13. ATCO Electric submitted that the legal fees claimed from Stringam LLP should be reduced on the basis that the charges are excessive and unreasonable. In particular, ATCO Electric noted that the cost claim did not include any reasons why Mr. Carter was retained in addition to Mr. Brideau, and argued that insufficient detail was provided to assess Mr. Carter’s fees. ATCO Electric submitted that it was unreasonable for two lawyers to be working on preparation for the hearing without adequate reason to do so, and to have a senior lawyer spend significant amounts of time on legal research.

14. In reply submissions, Stringam LLP indicated that Mr. Carter was counsel from October 11 to November 12, 2016, at which time Mr. Brideau assumed carriage of the file. At no time were Mr. Carter's fees excessive, unjustifiable or duplicative of Mr. Brideau's fees.

15. The Commission finds that the Andreiuks and Mr. Sears acted responsibly in the original proceeding and contributed to the Commission's understanding of the relevant issues, and that the services performed by Mr. Brideau and Mr. Carter were directly and necessarily related to the Andreiuks' and Mr. Sears' participation in the original proceeding. However, the Commission denies part of the costs claimed in respect of the services performed by Stringam LLP for the following reasons.

16. The Commission finds that the 11.75 hours claimed on each of the Sears and Andreiuks invoices for research of statutes, reviewing the file and preparing for the hearing (totalling 23.50 hours for the two parties) is excessive, given the relative complexity of the issues in the hearing, Mr. Brideau's years of experience, and that the hours were claimed at the maximum hourly rate for counsel with eight to 12 years of experience allowed in the Scale of Costs. The Commission therefore reduces the 11.75 hours claimed for the Andreiuks by four hours (at the hourly fee claimed of \$320.00 per hour), and reduces the 11.75 hours claimed for Mr. Sears by four hours (at the hourly fee claimed of \$320.00 per hour).

17. The Commission also notes that the division of tasks on the file between Mr. Brideau and Mr. Carter is not clear from the invoices provided by Stringam LLP, as there is no explicit indication of the hours spent by Mr. Carter versus Mr. Brideau shown on the statement of account. However, in its reply to ATCO Electric's submissions, Stringam LLP stated that Mr. Carter was counsel on the file from October 11 to November 12, 2016, at which point Mr. Brideau assumed carriage of the file. The Commission agrees with ATCO Electric's submission that the statement of account for Mr. Carter's fees did not clearly identify the work completed by Mr. Carter in contrast to Mr. Brideau. A more detailed invoice, showing the point at which the file was transferred and/or the activities undertaken by Mr. Carter versus Mr. Brideau, would have been helpful to the Commission's assessment of the costs claimed for Stringam LLP. Notwithstanding that the invoice did not clearly delineate Mr. Carter's versus Mr. Brideau's activities, the sum of the hours shown on the invoice from October 11 to November 12, 2016 is consistent with the 7.70 hours claimed as Mr. Carter's hours in the reply to ATCO Electric's submissions. The Commission is prepared to accept Stringam LLP's explanation that two lawyers were not working concurrently on the file and will not reduce the hours invoiced by counsel on that basis.

18. Accordingly, the Commission approves the Andreiuks' claim for legal fees for Stringam LLP in the amount of \$13,399.00, disbursements of \$2,101.38 and GST of \$775.02 for a total of \$16,275.40. The Commission approves Mr. Sears' claim for legal fees for Stringam LLP in the amount of \$8,848.00, disbursements of \$48.95 and GST of \$444.85 for a total of \$9,341.80.

Honoraria

19. The costs claim application also included a claim for attendance honorarium of \$200.00 for Mr. George Andreiuk and a claim for attendance honorarium of \$200.00 for Mr. Sears. The claims for attendance honoraria are reasonable and within the Scale of Costs, and are approved by the Commission.

Total amount awarded

20. The Commission approves the Andreiuks’ claim for recovery of costs in the total amount of \$16,475.40. This amount is composed of legal fees of \$13,399.00, honorarium of \$200.00, disbursements of \$2,101.38 and GST of \$775.02. The Commission approves Mr. Sears’ claim for recovery of costs in the total amount of \$9,541.80. This amount is composed of legal fees of \$8,848.00, honorarium of \$200.00, disbursements of \$48.95 and GST of \$444.85.

2.2 Mr. Chester Groner

21. The following table summarizes the Mr. Groner’s cost claim for the original application:

Claimant	Hours			Fees	Disbursements	GST	Total
	Preparation	Attendance	Argument				
Mr. Chester Groner							
Honorarium	0.00	0.00	0.00	\$5,200.00	\$0.00	\$0.00	\$5,200.00
Total	0.00	0.00	0.00	\$5,200.00	\$0.00	\$0.00	\$5,200.00

22. Mr. Groner requested an attendance honorarium of \$200.00 and preparation honoraria of \$2,500.00 for both Mr. Groner and Ms. Wathen (the Groners), totalling \$5,200.00.

23. The Groners represented themselves throughout the process and prepared information requests, responded to information requests and submitted evidence prior to the hearing. In addition, Mr. Groner gave direct evidence, cross-examined other witnesses and gave oral argument during the two day proceeding. He raised relevant issues regarding the transmission line’s potential impacts on trumpeter swans which use his land, the value of the Groner property and ATCO Electric’s consultation practices. Part of the Groners’ submissions included alternate routes for the Commission’s consideration. In summary, the Groners invested a good deal of time and resources in a meaningful intervention and contributed to the Commission’s understanding of the issues.

24. The Commission finds that Ms. Wathen is a local intervener for the purposes of costs notwithstanding that she did not register separately from Mr. Groner in the proceeding. They are husband and wife, jointly own and occupy their property and together prepared their intervention.

25. Accordingly, the Commission approves the Groners’ claim for recovery of costs in the total amount of \$5,200.00. This amount is composed of a preparation honorarium of \$2,500.00 for Ms. Wathen and \$2,500.00 for Mr. Groner, and a claim for attendance at the hearing of \$200.00 for Mr. Groner.

2.3 The Halwas and Pelsters

26. The following table summarizes the cost claim jointly submitted by the Halwas and Pelsters for the original application:

Claimant	Hours			Fees	Disbursements	GST	Total
	Preparation	Attendance	Argument				
The Halwas and Pelsters							
KMSC Law	48.60	16.80	2.50	\$19,409.00	\$1,077.45	\$1,018.82	\$21,505.27
Honorarium	11.50	7.00	0.00	\$925.00	\$27.00	\$47.60	\$999.60
Total	60.10	23.80	2.50	\$20,334.00	\$1,104.45	\$1,066.42	\$22,504.87

KMSC Law

27. The Halwas and Pelsters were jointly represented by KMSC Law in the original proceeding. The fees claimed by the Pelsters and the Halwas for the legal services provided by Mr. Timothy Bayly, Mr. Erik Compton, Ms. Jennifer Bayly-Atkin, and Mr. Robert Henry relate to reviewing the application, meeting with the clients, drafting information requests, reviewing responses, drafting evidence and preparing for and attending the hearing.

28. ATCO Electric submitted that it was unreasonable and inefficient to have two lawyers attending the hearing instead of one, and that the costs claim did not provide any justification for having four lawyers working on the file. ATCO Electric noted that KMSC Law's statement of account included frequent entries for internal meetings, exchanges of emails, or status updates between legal counsel at KMSC Law, which did not involve the Halwas, Pelsters, or any external parties. ATCO Electric further submitted that the inability of Mr. Bayly and Mr. Compton to coordinate at the hearing, and Mr. Bayly's unsuccessful attempt to re-seat his witness after his evidence had already been presented, unnecessarily lengthened the hearing.

29. ATCO Electric also submitted that the costs claim did not adequately explain why Mr. Henry's services as a land agent were needed or relevant. ATCO Electric also reiterated that no rationale was provided to explain why Ms. Bayly-Atkin's involvement was required, and why fees at the top end of the scale of costs were warranted for such involvement.

30. ATCO Electric further submitted that the preparation honoraria claimed by Mr. Halwa and Mr. Pelster were unreasonable, as the Commission should not award preparation honoraria to landowners where legal counsel is primarily responsible for hearing preparation. ATCO Electric also noted that landowners are only entitled to \$50.00 per half day of hearing attendance.

31. The Halwas and Pelsters replied that Mr. Compton and Mr. Bayly were primarily in charge of the file; Ms. Bayly-Atkin was contacted to discuss preliminary issues and the small amount of time spent was reasonable in the circumstances. The Halwas and Pelsters submitted that Mr. Henry is KMSC Law's land expert who helped to prepare for evidence in chief and answer questions as needed, and who they used as an internal land expert rather than hiring an external expert. The Halwas and Pelsters submitted that the costs claimed were appropriate in the circumstances given the complexity and uniqueness of the proceedings, and the comparative resources of the applicant.

32. The Commission finds that the Halwas and Pelsters acted responsibly in the original proceeding and contributed to the Commission's understanding of the relevant issues. The

Commission finds that the services performed by Mr. Compton, Ms. Bayly-Atkin, Mr. Henry and Mr. Bayly were directly and necessarily related to the Halwas' and Pelsters' participation in the original proceeding. However, the Commission finds that the fees claimed for these services were unreasonable and excessive and denies part of the costs claimed by KMSC Law.

33. The Commission finds that the use of three lawyers and one land agent on the file was excessive and resulted in duplicative efforts in preparing for the hearing, as demonstrated by the significant number of entries in KMSC Law's statement of account relating to internal correspondence, instructions, discussion and meetings.

34. The Commission acknowledges that in certain circumstances, it may be efficient to divide responsibility for different tasks on a file, particularly if delegation of tasks has the effect of lowering overall fees through the use of junior counsel or support staff. However, Ms. Bayly-Atkin, Mr. Henry, and Mr. Bayly all claimed fees at or near the top end of the maximum allowable hourly rates in the Scale of Costs. For instance, based on the statement of account, Ms. Bayly-Atkin's contributions appear to have been primarily related to research and collection of documents relating to the proceeding on the Commission's website, as well as researching the Commission's website for its Rules relating to statements of intent to participate. The relative complexity of these tasks does not justify the use of counsel operating at the maximum allowable hourly rate in the Scale of Costs. The Commission reduces Ms. Bayly-Atkin's fees by 20 per cent, thereby reducing the total fees claimed for KMSC Law by \$196.00.

35. Notwithstanding Mr. Henry's level of qualification as a land agent or his agricultural experience, the Commission agrees with ATCO Electric's submission that it was not clear how Mr. Henry's services were specifically relevant to, or contributed to a better understanding of, the issues in this proceeding. It is not clear to the Commission why Mr. Henry's land agent qualifications or agricultural knowledge was required to aid in a review of the documents and exhibits submitted by ATCO Electric, and as no information was provided to explain his specific contribution to this review, the Commission must conclude that his services were unnecessarily duplicative of the services conducted by Mr. Bayly or Mr. Compton. The Commission disallows all of the costs claimed in respect of Mr. Henry's services (amounting to a total of 11.90 hours at an hourly rate of \$270), thereby reducing the fees claimed by KMSC by \$3,213.00.

36. Additionally, the claim included disbursements from KMSC Law for "LTO Title Search" and "LTO Request Docs" of \$90.00 and \$20.00, respectively. These charges relate to a land titles office search conducted by KMSC Law on the second day of the hearing, January 18, 2017. At the hearing, the Commission determined that it would not allow this evidence to be introduced onto the record.³ Given that the documents were not allowed to be introduced onto the record and therefore were not of assistance to the Commission in rendering its decision, the Commission denies recovery of the disbursements for the LTO Title Search and LTO Request Docs, in the total amount of \$110.00. Further, the summary of professional fees and disbursements claimed for KMSC Law includes \$100.00 for "Computer Charges" under Miscellaneous disbursements. As the Commission has no information as to what constitutes computer charges, the Commission denies the claim for \$100.00 for computer charges. Additionally, KMSC Law's internal photocopying disbursements, at \$0.10 per copy, were listed as \$816.70, which amounts to over 8,000 pages of photocopying for the proceeding. The Commission considers this

³ Transcript Volume 2, Proceeding 21761, pages 366-367.

disproportionate to the total size of the record in this proceeding and accordingly reduces the photocopying disbursements by 40 per cent, for a total of \$490.02 for internal photocopying charges. The remainder of the disbursements claimed are within the Scale of Costs and approved.

37. Accordingly, the Commission approves the Halwas' and Pelsters' claim for legal fees for KMSC Law in the amount of \$16,000.00, disbursements of \$540.77 and GST of \$827.04 for a total of \$17,367.81.

Honoraria

38. The costs claim application also included a claim for preparation honorarium of \$570.00 for Mr. Ted Halwa and a claim for preparation honorarium of \$355.00 for Mr. Henry Pelster, and disbursements for mileage of \$27.00. Appendix A of Rule 009 states that a preparation honorarium may not be awarded if a lawyer is primarily responsible for the preparation of an intervention. As Mr. Halwa and Mr. Pelster were represented by KMSC Law, their claims for preparation honoraria are denied. Based on a review of the statement of account prepared on behalf of the interveners, the Commission finds that Mr. Halwa was in attendance at the hearing for a total of one day, and Mr. Pelster for half a day. Accordingly, the Commission awards attendance honorarium of \$100.00 for Mr. Halwa and \$50.00 for Mr. Pelster. The disbursements claimed are within the Scale of Costs and approved.

Total amount awarded

39. The Commission approves the Halwas' and Pelsters' claim for recovery of costs in the total amount of \$17,546.16. This amount is composed of legal fees of \$16,000.00, honorarium of \$150.00, disbursements of \$567.77 and GST of \$828.39.

2.4 Mr. Ward Sallis

40. The following table summarizes Mr. Sallis' cost claim for the original proceeding:

Claimant	Hours			Fees	Disbursements	GST	Total
	Preparation	Attendance	Argument				
Mr. Ward Sallis							
Prowse Chowne LLP	150.13	19.47	15.20	\$46,368.00	\$3,816.41	\$2,509.23	\$52,693.64
Aquality Environmental Consulting	78.00	14.50	0.00	\$16,380.00	\$1,008.44	\$868.90	\$18,257.34
Veritas Litigation Support	34.30	0.00	0.00	\$3,790.50	\$1,475.00	\$263.28	\$5,528.78
Honoraria	0.00	0.00	0.00	\$500.00	\$0.00	\$0.00	\$500.00
Total	262.43	33.97	15.20	\$67,038.50	\$6,299.85	\$3,641.41	\$76,979.76

41. Mr. Sallis retained the law firm of Prowse Chowne LLP which claimed a total of \$52,693.64 including fees, disbursements and GST as set out above. Two lawyers, Ms. Debbie Bishop and Mr. Ryan Henriques, provided legal assistance to Mr. Sallis with Mr. Henriques incurring 159.6 hours and Ms. Bishop 25.20 hours. Mr. Sallis' intervention was the only one which included expert evidence as well as an aerial video filmed by a drone.

42. The Commission finds that Mr. Sallis acted responsibly in the original proceeding and contributed to the Commission's understanding of the relevant issues. However, the Commission denies part of the costs claimed in respect of the services performed by Prowse Chowne LLP and Veritas Litigation Support for the reasons set out below.

Prowse Chowne LLP

43. The legal services provided by counsel relate to communications directly with Mr. Sallis, drafting information requests, reviewing responses from ATCO Electric, preparing and filing written submissions, retaining the expert witness, commissioning the video evidence, presenting direct and expert evidence, cross-examination of witnesses adverse in interest and delivery of oral argument at the close of the hearing.

44. Prowse Chowne submitted that the services were provided efficiently and that greater legal costs were avoided because Mr. Henriques, an associate, acted as the primary counsel with Ms. Bishop, a partner, playing a lesser role.

45. ATCO Electric argued that Prowse Chowne LLP's fees were excessive, significantly higher than other interveners, and did not appear to reflect any savings through Mr. Henriques' role as the primary counsel. It specifically questioned the 10.20 hours of time incurred by Ms. Bishop during the hearing, given that she did not attend the hearing in person.

46. The Commission finds that the Sallis intervention was a thorough one and required more preparation than other interventions because of the expert and video evidence in addition to Mr. Sallis' direct evidence that was placed on the record. However, the Commission finds that the time required for preparation is somewhat excessive. It amounts to almost 20 days (at 8 hours per day) for a single intervener. Nonetheless, the intervention was directly and necessarily related to the application and assisted the Commission panel in a better understanding of Mr. Sallis' issues and concerns. It did not duplicate the evidence of other interveners in any significant way. The majority of the legal work was provided by Mr. Henriques at a lower rate than would have been the case if Ms. Bishop was the primary lawyer. It is understandable that Mr. Henriques discussed and sought advice from his more senior colleague during the hearing. The Commission finds that this assistance was reasonable, although not at the amount claimed as it is not clear from the submission which issues required that amount of time. Further, the Commission finds that the time claimed for preparing final argument is also excessive, given the entirety of the evidence and the length of the hearing.

47. The Commission reduces the overall preparation time by 20 hours and argument time by five hours. Ms. Bishop's claim for 10.20 hours during the hearing is reduced by four hours. The result is that the Commission approves Mr. Henriques' fees in the sum of \$32,304.00 and Ms. Bishop's fees in the sum of \$6,784.00.

48. In addition, the disbursements claimed by Prowse Chowne LLP were not all claimed in accordance with the Scale of Costs. Accommodation costs for the four days of hearing attendance have been adjusted to reflect the maximum amount allowable under the Scale of Costs, which is \$140.00 per day, plus applicable taxes. The accommodation costs have been reduced from \$742.95 to \$420.00 in accordance with the Scale of Costs. In accordance with section 3 b) of Rule 009, receipts are required for all meals claimed, with the date of the meal marked on the receipt. Per diem amounts may not be claimed under Rule 009 for meals. The meal costs are therefore reduced by \$45.04. The Commission approves the remaining disbursements for airfare, taxi, transcripts and photocopying in the amount of \$2,993.46.

49. Accordingly, the Commission approves Mr. Sallis' claim for legal fees for Prowse Chowne LLP in the amount of \$39,088.00, disbursements of \$3,448.42 and GST of \$2,126.83 for a total of \$44,663.25.

Aquality Environmental Consulting

50. Aquality Environmental Consulting Ltd. (Aquality) was retained by Mr. Sallis to review the two environmental reports⁴ filed with the ATCO Electric application dealing with vegetation and wetlands and wildlife. It claimed total fees of \$18,257.34 representing 78 hours for preparation and 14.50 hours for Mr. Jay White's attendance at the hearing. The preparation time was incurred mostly by Mr. White's associates at Aquality.

51. Aquality's written report was relatively brief and pointed out a number of deficiencies in the environmental evidence including the lack of an in-depth historical photo analysis of the affected wetlands to determine their permanency; the lack of water chemistry to determine the classification of the wetlands and the lack of any assessment as to the value of the wetlands. The report questioned whether a qualified wetland practitioner oversaw the ATCO Electric evidence. The report also concluded that the preferred route crosses or is adjacent to more wildlife habitat, increasing the risk of avian collisions with the power lines.

52. ATCO Electric submitted that the environmental work prepared by Aquality was of limited use and that the cost was excessive given its brevity and utility. It also questioned why a total of seven consultants were necessary to prepare the Aquality evidence and whether Mr. White's claim for his full attendance at the hearing was necessary.

53. The Commission finds that Aquality's work was generally useful and contributed to the Commission's understanding of the preferred and alternative routes' impacts to birds and in particular the potential impacts to wetlands. In order to identify areas of concern, Aquality conducted a detailed review of the two ATCO Electric reports and Mr. White gave knowledgeable testimony about the nature, classification and techniques employed in assessing impacts to wetlands. Without this expert evidence, the Commission would have only had the benefit of the applicant's evidence in considering the environmental issues. Further, the Commission finds that it was reasonable for Mr. White to attend the hearing for two days in order to hear ATCO Electric's evidence on the first day, and assist his counsel in cross-examination and to give his own direct evidence on the second day.

54. For these reasons, the Commission approves Mr. Sallis' claim for consulting fees for Aquality Environmental Consulting in the amount of \$16,380.00, disbursements for airfare, accommodations, meals and external printing of \$1,008.44 and GST of \$868.90 for a total of \$18,257.34.

Veritas Litigation Support

55. Veritas Litigation Support (Veritas) claimed fees of \$3,790.50, disbursements of \$1,475.00, and GST of \$263.28 in connection with the production of an aerial video filmed by a drone. The video showed the preferred route as it approached and passed by Mr. Sallis' property. The fees are based on 34.40 hours of work at rates of \$90.00 and \$125.00 per hour. The work included pre-flight planning, regulatory compliance, hazard assessment, development of a flight plan, travel to the site, drone piloting, video production and post production editing and

⁴ Exhibits 21761-X0080 and 21761-X0081, Proceeding 21761, Alberta Electric System Operator Needs Identification Document Application and ATCO Electric Ltd. Facility Applications Hughes 2030S Substation.

attendance at the hearing to bring screens in and operate the video system. The expenses relate to the rental of various pieces of electronic equipment.

56. The Commission finds that the drone video evidence was pertinent to Mr. Sallis' issues and depicted the proposed transmission line in relation to his property, house, wetlands on and nearby his property in a medium and perspective that assisted the panel in understanding exactly why he was concerned with the location of the transmission line. The Commission finds that in this case, it was more effective to view the aerial video than follow a witness' verbal, written, still photographic or mapping evidence of distances, location and size of impacted land features.

57. The Commission finds that a certain degree of skill and experience is required to produce a high quality video suitable for the hearing room. Given the assistance that the video provided to the panel, the Commission exercises its discretion and awards the fees at a rate of \$120.00 per hour. Accordingly, the Commission reduces the fees claimed by \$100.50 which results in a new total of \$3,690.00 in fees for services.

58. Veritas claimed travel time at \$90.00 and \$125.00 per hour in its two invoices. The invoices do not break out the travel time from other services, but based on a round trip of nine hours from Veritas' business location in St. Albert to Grande Prairie, the Commission approves two trips, one to film the video and the other to attend the hearing. Only one half of the claimed hourly rate is permitted by section 1 in the Scale of Costs, resulting in the Commission's approval of \$405.00 (9 x \$45.00) for one trip and \$540.00 for the other (9 x \$60.00). Veritas' adjusted claim is therefore reduced by a further \$945.00 for a total of \$2,745.00 in fees.

59. The Commission approves Mr. Sallis' claim for consulting fees for Veritas Litigation Support in the amount of \$2,745.00, disbursements for equipment fees and supplies of \$1,475.00 and GST of \$211.00 for a total of \$4,431.00

Honoraria

60. The costs claim application also included a claim for attendance honorarium of \$200.00 and a preparation honorarium of \$300.00 for Mr. Sallis. Appendix A of Rule 009 states that a preparation honorarium may not be awarded if a lawyer is primarily responsible for the preparation of an intervention. As Mr. Sallis was represented by Prowse Chowne LLP, his claim for preparation honorarium is denied. The Commission approves Mr. Sallis' claim for an attendance honorarium of \$200.00.

Total amount awarded

61. The Commission approves Mr. Sallis' claim for recovery of costs in the total amount of \$67,551.59. This amount is composed of legal fees of \$39,088.00, consulting fees of \$19,125.00, honorarium of \$200.00, disbursements of \$5,931.86 and GST of \$3,206.73.

3 Order

62. It is hereby ordered that:

- 1) ATCO Electric Ltd. shall pay intervener costs to the Andreiuks in the amount of \$16,475.40. Payment shall be made to Stringam LLP, attention: Mr. Patrice Brideau at 102, 10126-97 Avenue, Grande Prairie, Alberta, T8V 7X6.
- 2) ATCO Electric Ltd. shall pay intervener costs to Mr. Gregory Sears in the amount of \$9,541.80. Payment shall be made to Stringam LLP, attention: Mr. Patrice Brideau at 102, 10126-97 Avenue, Grande Prairie, Alberta, T8V 7X6.
- 3) ATCO Electric Ltd. shall pay intervener costs to Mr. Chester Groner in the amount of \$5,200.00.
- 4) ATCO Electric Ltd. shall pay intervener costs to the Pelsters and the Halwas in the amount of \$17,546.16. Payment shall be made to KMSC Law, attention: Mr. Erik Compton at 401, 201514-67 Avenue, Grande Prairie, Alberta T8W 0K8.
- 5) ATCO Electric Ltd. shall pay intervener costs to Mr. Ward Sallis in the amount of \$67,551.59. Payment shall be made to Prowse Chowne LLP, attention: Ms. Debbie Bishop at Suite 1300-10020 101A Avenue NW, Edmonton, Alberta, T5J 3G2.

Dated on June 9, 2017.

Alberta Utilities Commission

(original signed by)

Neil Jamieson
Panel Chair