

March 22, 2019

To: Persons currently registered on Proceeding 23943

**Alberta Electric System Operator  
Transmission Enhancements in the West Edmonton Area Needs Identification Document  
Proceeding 23943  
Applications 23943-A001**

**EPCOR Distribution & Transmission Inc.  
West Edmonton Transmission Upgrade Project  
Proceeding 23943  
Applications 23943-A002 to 23943-A006**

**Ruling on standing**

1. In this ruling, the Alberta Utilities Commission decides whether to hold a public hearing to consider an application by the Alberta Electric System Operator (AESO) for approval of a needs identification document (NID), and facility applications by EPCOR Distribution & Transmission Inc. (EPCOR) for the West Edmonton Transmission Upgrade Project located in Edmonton, Alberta.
2. The Commission must hold a hearing if persons who have filed a statement of intent to participate in Proceeding 23943 have demonstrated that they have rights that may be “directly and adversely affected” by the Commission’s decision. Such a person may participate fully in the hearing, including giving evidence, questioning witnesses and providing argument. This permission to participate is referred to as standing.
3. The Commission has authorized me to communicate its decision on standing.

**Statements of intent to participate**

4. On November 9, 2018, the Commission issued a notice of applications for Proceeding 23943. In the notice, the Commission directed any person who had concerns or objections to the applications to file a statement of intent to participate by December 28, 2018. The Commission subsequently extended the deadline for written submissions to January 8, 2019.
5. The Commission received numerous statements of intent to participate in response to the notice of applications, including from the Consumers’ Coalition of Alberta (CCA) and persons or groups who stated that they own, occupy or manage land near the proposed project.
6. The CCA filed a statement of intent to participate in which it explained that it acts for the Consumers’ Association of Canada (Alberta Division), and the Alberta Council on Aging. The CCA stated that it is concerned with the tariffs, rates and charges of the various public utilities operating in Alberta and regulated by the Commission. The CCA stated that this proceeding would impact utility rates, and requested the opportunity to submit information requests, review

responses and file submissions on further process. The CCA added that if necessary and permitted by the Commission, it may file evidence, argument and reply argument.

7. The concerns raised by the persons or groups who own, occupy or manage land near the proposed project include the siting of the proposed transmission line, decreased property values, property access during construction, visual effects, increased noise, negative health effects, impacts on safety, quality of public consultation and effects on the environment.

### **How the Commission determines standing**

8. Section 9(2) of the *Alberta Utilities Commission Act* sets out how the Commission must determine standing:

**(2)** If it appears to the Commission that its decision or order on an application **may directly and adversely affect the rights of a person**, the Commission shall

- (a) give notice of the application in accordance with the Commission rules,
- (b) give the person a reasonable opportunity of learning the facts bearing on the application as presented to the Commission by the applicant and other parties to the application, and
- (c) hold a hearing. [emphasis added]

9. The meaning of the key phrase, “directly and adversely affect,” has been considered by the Court of Appeal of Alberta on multiple occasions, and the legal principles set out by the court guide the Commission when it determines standing. Standing is determined by the application of a two-part test. The first test is legal: a person must demonstrate that the right being asserted is recognized by law. This could include property rights, constitutional rights or other legally recognized rights, claims or interests. The second test is factual: a person must provide enough information to show that the Commission’s decision on the application may “directly and adversely affect” the person’s right, claim or interest.<sup>1</sup>

10. To determine if a right is “directly” affected, the court has said that “[s]ome degree of location or connection between the work proposed and the right asserted is reasonable.”<sup>2</sup> When considering the location or connection, the Commission looks at factors such as residence and the frequency and duration of the applicant’s use of the area near the proposed site.<sup>3</sup>

11. The Commission summarized court decisions relating to the meaning of the phrase “directly and adversely affected” in a decision issued in 2015 and concluded that to pass the test for standing, “the potential effects associated with a decision of the Commission must be personal rather than general and must have harmful or unfavourable consequences.” The Commission further commented that the court decisions “highlight the need for persons seeking

---

<sup>1</sup> *Cheyne v Alberta (Utilities Commission)*, 2009 ABCA 94; *Dene Tha’ First Nation v Alberta (Energy and Utilities Board)*, 2005 ABCA 68 [*Dene Tha’*].

<sup>2</sup> *Dene Tha’* at paragraph 14.

<sup>3</sup> *Sawyer v Alberta (Energy and Utilities Board)*, 2007 ABCA 297.

standing to demonstrate the degree of connection between the rights asserted and potential effects identified.”<sup>4</sup>

12. The Commission assesses the potential for a “direct and adverse effect” on a case-by-case basis. It considers the specific circumstances of each proposed project application and each statement of intent to participate that it receives. In the past, the Commission has decided that general or broad concerns about a proposed project will generally be insufficient to establish standing, unless a more specific link or connection to the demonstrated or anticipated characteristics of a proposed project is established.

### **Ruling**

13. The CCA stated that its concerns relate to how the applications, if approved, may potentially affect ratepayers, but it did not assert any additional interests that it claimed may be directly and adversely affected by the Commission’s decision on the applications.

14. It is the Commission’s view that the approval of a needs application has the potential to affect the CCA’s members, as Alberta electricity ratepayers. As such, the Commission finds that the CCA has standing to participate in this proceeding with respect to the AESO’s NID application.

15. The CCA has not demonstrated that it, or any of its members, hold legally recognized rights that may be directly and adversely affected by the Commission’s decision on the facility applications. The CCA has consequently not satisfied the two-part standing test in relation to the facility applications, and is denied standing in the facility applications.

16. Individuals who own or occupy property located in the first row of residences adjacent to a proposed transmission line route, or within 200 metres of the edge of the right-of-way of a proposed transmission line route, or within 200 metres of the Poundmaker, Meadowlark or Garneau substations, have demonstrated that they have legal rights that may be directly and adversely affected by the Commission’s decision on the applications. The potential effects and concerns described by these persons include decreased property values, visual effects, increased noise, negative health effects, and effects on the environment that affect them or their property. Their proximity to the proposed development, in most cases as owners or occupiers of the nearest residence to a portion of the development, indicates that the concerns raised (if substantiated) may directly and adversely affect them or their interests. The Commission therefore grants standing to these individuals. The names of the individuals with standing are listed in Schedule A to this letter.

17. Boardwalk Rental Communities filed a statement of intent to participate in which it indicated that the proposed transmission line and Meadowlark Substation are adjacent to its property at 15503 - 87nd Avenue, which comprises almost 600 residential suites. Boardwalk Rental Communities has demonstrated that it has legal rights that may be directly and adversely affected by the Commission’s decision on the applications. It is consequently granted standing in this proceeding.

---

<sup>4</sup> [Decision 3110-D02-2015](#), Market Surveillance Administrator Allegations against TransAlta Corporation et al., Phase 2 Preliminary matters; Standing and Restitution, Proceeding 3110, September 18, 2015.

18. Crestwell Realty filed a statement of intent to participate in which it indicated it is the property manager for Depot 170, a shopping centre located at 9930 - 170th Street. It stated that the centre's businesses and customers will be affected if the proposed transmission line is constructed on the alternate route on 170th Street. It is concerned about access to the shopping centre during construction, negative effects of EMF radiation and reduced visual attractiveness of the shopping centre and area. The Commission is satisfied that the legal rights and interests of the Depot 170 owners may be directly and adversely affected if the proposed transmission line is located along the 170th Street route. The Commission therefore grants Crestwell Realty standing to participate as the representative of Depot 170.

19. Four community or homeowner groups also requested standing, namely:

- Lynnwood Community League
- Glenwood Community League
- Aldergrove Community League
- Grange Homeowners Association

20. When a community or homeowner organization requests standing in a Commission proceeding, the Commission generally considers the organization to have standing if it represents one or more members that have standing to participate, or if the organization itself has a legal right or interest that may be directly and adversely affected by the proposed development. The Commission notes that the Lynnwood Community League occupies property at the corner of 84th Avenue and 156th Street, which is near the Meadowlark Substation and is adjacent to the proposed transmission line route. On this basis, the Commission grants standing to the Lynnwood Community League to participate in this proceeding, in its own right and as the representative of those members who indicated they were represented by the Lynnwood Community League. The Lynnwood Community League is also listed in Schedule A to this letter.

21. The Glenwood Community League's statements of intent to participate indicate that the organization's community hall is located at 16430 - 97th Avenue. That location is not within 200 metres of the proposed development, and is not in a first row adjacent to proposed development. The Glenwood Community League has not demonstrated that it has a legal right or interest that may be directly and adversely affected by the proposed development. It is therefore not granted standing in its own right.

22. The Commission received several statements of intent to participate from residents of the Glenwood community, and many of those residents have been granted standing to participate in this proceeding for the reasons described in paragraph 16 above; they are also listed in Schedule A. None of those Glenwood community residents indicated, however, that their interests would be represented by the Glenwood Community League in this proceeding. If any of the Glenwood community residents who have standing indicate to the Commission that the Glenwood Community League will represent their interests in this proceeding, the Commission will allow the Glenwood Community League to participate as their representative.

23. The Aldergrove Community League's statement of intent to participate indicates that the organization's community hall is located at 18535 - 182nd Street. That location is not within 200 metres of the proposed development, and is not in a first row adjacent to proposed development. The Aldergrove Community League has not demonstrated that it has a legal right

or interest that may be directly and adversely affected by the proposed development, and is consequently not granted standing in its own right.

24. The Commission also received several statements of intent to participate from residents of the Aldergrove community, and many of those residents have standing to participate in this proceeding for the reasons described in paragraph 16. One of those residents with standing, Mark Edey, filed the Aldergrove Community League's statement of intent to participate. None of the Aldergrove community residents indicated, however, that their interests would be represented by the Aldergrove Community League in this proceeding. If any of the Aldergrove community residents who have standing indicate to the Commission that the Aldergrove Community League will represent their interests in this proceeding, the Commission will allow the Aldergrove Community League to participate as their representative.

25. The Grange Homeowners Association and Barbara Warkentin filed statements of intent to participate, stating that the homeowners were opposed to any above-ground power lines being added to Anthony Henday Drive. The Commission notes that the route proposed for the transportation and utility corridor along Anthony Henday Drive would locate the transmission line near the eastern limits of that corridor. The statements of intent to participate indicate that the proposed transmission line would be 800 metres and 1,000 metres, respectively, from the Grange homeowners' community and Barbara Warkentin's residence, both of which are west of Anthony Henday Drive. For this reason, the Commission finds that neither the Grange Homeowners Association nor Barbara Warkentin have demonstrated that they have a legal right or interest that may be directly and adversely affected by the proposed development. They are accordingly denied standing.

26. Mohammad Motamedi filed a statement of intent to participate in which he indicated his residence was 800 metres from the proposed development. Mr. Motamedi's property is not in a first row adjacent to a proposed transmission line route, and is in a cul-de-sac that is east of the first row of residences. Mr. Motamedi has not demonstrated that he has legal rights or interests that may be directly and adversely affected by the proposed development, and is consequently denied standing in this proceeding.

27. For the reasons stated above, the Commission finds that the parties listed in Schedule B are not entitled to standing. It does not appear to the Commission that any of these parties has a legal right or interest that may be directly and adversely affected by the proposed development.

28. A notice of hearing for the applications filed in this proceeding will be issued in due course.

29. If you have any questions, please contact the undersigned at 403-592-3280 or by email at [gary.perkins@auc.ab.ca](mailto:gary.perkins@auc.ab.ca).

Yours truly,

Gary Perkins  
Commission Counsel

Attachments

**Schedule A - Persons and organizations with standing in Proceeding 23943**

<b>Name</b>	<b>Representative</b>
Lynnwood Community League	Ackroyd LLP
Shannon Pailer	
Denise and William Mann	Ackroyd LLP
Adelard and Joanne Meunier	Ackroyd LLP
Craig Donner	Ackroyd LLP
Perry and Maria O'Connor	Ackroyd LLP
E. Fay Stankov	
Mark Bevan and Renae Leitch	
Dean McCarthy	
Mark and Laverne McAthey	Ackroyd LLP
Ian Thompson	
Martin Mazurek	
Lloyd Ackerman	
Richard Ennis	Bishop Law
Linda and Dora Lee	Ackroyd LLP
Mark Kluthe	Ackroyd LLP
Richard Weiers	
David Leonard	
Sara Timeus	Ackroyd LLP
Roger Sutton	
Michael White	
Larry Bly	
Mark Edey	
Jean-Paul Noujaim	
Tracy Cui	Ackroyd LLP
Sasan Sajedi	
Alison Phillips	
Albertus van Delden	
Harry Adeghe	
David Arnold and Claire Arnold	Ackroyd LLP
Ken Huff	
Caitlin Barth	
John and Grace Pasma	Ackroyd LLP
Allen and Suzanne Powles	Ackroyd LLP
James Midbo	Ackroyd LLP
Mickey Legault	
Bruce Seeman	
Heather Hamilton	Ackroyd LLP
Tim Horbasenko	

<b>Name</b>	<b>Representative</b>
Joel Winters	
Ana Koprulu	
David Kerridge	
Sharon Beitel	Ackroyd LLP
Venita Heiland	Ackroyd LLP
John and Gertrude Fitzsimmons	Ackroyd LLP
Cheryl Hogstead and Burt Hogstead	
Gordon Badach	
Gilbert Benedictson	
Gerald Lavoie	
Wendy Phinney	
Jeannette Clouston	
Jaret and Marie Jahner	Ackroyd LLP
Martin Cuffe	
Katherine Damron	
Chris Chambers	Ackroyd LLP
Margaret Joyce Chisholm	Ackroyd LLP
Burt and Deanna Demeriez	Ackroyd LLP
Alexander George Lambert	Ackroyd LLP
Rebecca Griffins	Ackroyd LLP
Ted and Kim MacAndrew	Ackroyd LLP
Olga McBride	Ackroyd LLP
Sonya and Tom McBride	Ackroyd LLP
Lawrence Moonen	Ackroyd LLP
Bruce and Karen Nixon	Ackroyd LLP
Creselda and Jerome Reguma	Ackroyd LLP
Nathan and Nancy Schmuland	Ackroyd LLP
Brian and Diana Snidal	Ackroyd LLP
Michael, Isabelle and James Stang	Ackroyd LLP
Dan and Mary Jane Valois	Ackroyd LLP
Deb Stevens	Ackroyd LLP
John Willms and Margaret Pointen-Willms	Ackroyd LLP
Jo-Ann Giles	Ackroyd LLP
Gerardo Bonilla	
Ken Pedersen (President of Lynnwood Community League)	Ackroyd LLP
Joan Toth	
Robert Toth	
Rawad Masoud	Ackroyd LLP
Dave Bottos	Ackroyd LLP
Raine Turner	

<b>Name</b>	<b>Representative</b>
Santwana Carstensen-Sinha	Ackroyd LLP
Marilyn Kammer	
John and Iris Zapach	Ackroyd LLP
Suhong Yin	Ackroyd LLP
Nicole Hyde	
Kenneth Bentley	Ackroyd LLP
Raymond Bellerose	
Danny Philippe Barakat	Ackroyd LLP
Davine Ranz	Ackroyd LLP
Gail Jessome	Ackroyd LLP
Jillian Joudrie	Ackroyd LLP
Maurice LeCorre	Ackroyd LLP
Gayle Spencer and Kim Spencer	Bishop Law
Craig Russell	Ackroyd LLP
Kayla Parsons	
Dorothea Lalonde and Wilfred Lalonde	Ackroyd LLP
Nicole Vanthuynne	Ackroyd LLP
Chad Leask	
Consumers' Coalition of Alberta	James Wachwich
Boardwalk Rental Communities	Kimberly Brotzel
Randy and Pat MacDonald	Ackroyd LLP
Depot 170	Crestwell Realty



**Schedule B – Persons and organizations who do not have standing in Proceeding 23943**

<b>Name</b>	<b>Representative</b>
Mohammad Motamedi	
Barbara Warkentin	
Grange Homeowners Association	Barbara Warkentin
Aldergrove Community League	Mark Edey
Glenwood Community League	Jamie Post