ISSUE: JANUARY 2022 DECISIONS

ENERGY REGULATORY REPORT

This monthly report summarizes matters under the jurisdiction of the Alberta Energy Regulator ("AER"), the Alberta Utilities Commission ("AUC") and the Canada Energy Regulator ("CER") and proceedings resulting from these energy regulatory tribunals. For further information, please contact a member of the RLC Team.

Regulatory Law Chambers ("RLC") is a Calgary based boutique law firm, specializing in energy and utility regulated matters. RLC works at understanding clients' business objectives and develops legal and business strategies with clients, consistent with public interest requirements. RLC follows a team approach, including when working with our clients and industry experts. Visit our website to learn more about RLC.

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ALBERTA COURT OF QUEENS BENCH

***Edmonton River Valley Conservation Coalition Society v Council of the City of Edmonton,* 2022 ABQB 11**
Judicial Review - Moot

In this decision, the Alberta Court of Queen's Bench ("ABQB") dismissed an application for judicial review from The Edmonton River Valley Conservation Coalition Society (the "Society"), claiming that the Edmonton City Council did not exercise its authority properly when it amended Bylaw 18889 and Bylaw 18890.

Background

The matter concerned an Alberta Utilities Commission ("AUC") approved solar power plant. EPCOR Utilities Inc. ("EPCOR"), through its subsidiary, EPCOR Water Services Inc., wanted to construct the power plant on approximately 54 acres of land it owns adjacent to the E. L. Smith water treatment plant.

In 2020, the Council of the City of Edmonton ("City Council") conducted public hearings on proposed changes to the North Saskatchewan River Area Redevelopment Plan. Following these hearings, the City Council approved the amendment of the North Saskatchewan River Area Redevelopment Plan as well as amendments to land-use bylaws resulting in the rezoning of the property to also allow for the use of the land as a solar farm.

The Society sought to have the bylaws quashed. The Society argued that City Council had made errors by not passing a resolution deeming the relevant land essential and by improperly weighing the financial costs, social and environmental, and institutional constraints. The Society contended that the amendments to the bylaws were contrary to the *River Valley Redevelopment Act*.

Standing

EPCOR submitted that the Society did not have standing as it did not have the required public interest standing to bring the application. The ABQB found that the Society does not have a direct or equitable interest in the matter. The ABQB noted that the Society is concerned with the use and preservation of the North Saskatchewan River Valley in Edmonton and considered whether this gives it a public interest standing in the matter.

The ABQB applied the three-part test established by the Supreme Court of Canada in *Canada (Attorney General) v Downtown Eastside Sex Workers United Against Violence Society*, 2012 SCC 45, ("*Downtown Eastside*") to determine if the Society has public interest standing.

The ABQB found that there is a serious and justiciable issue to be addressed and that the Society, as the party in question, has a genuine interest in the outcome. The first two questions of the test were therefore answered in the affirmative.

Is the Action a Reasonable and Effective Way to Bring the Matter Before the Court?

To answer this question, the ABQB took a purposive approach to the analysis, as prescribed in *Downtown Eastside*.

EPCOR argued that it would have been appropriate for the Society to appeal the development permit for the solar project as set out in the *Municipal Government Act*. The ABQB, however, found that the *Municipal Government Act* does not contain provisions for appealing the decision from City Council to enact a bylaw. Accordingly, a judicial review application was the only way to bring the matter before the ABQB. The ABQB consequently held that the Society had standing.

Is the Matter Moot?

EPCOR submitted that the application ought not to proceed because the outcome is moot. EPCOR argued that, under s. 619 of the *Municipal Government Act*, coupled with the AUC's approval of the solar power plant, the City Council was forced to approve the rezoning application in order to facilitate the building of the project.

The ABQB noted that the AUC's decision was silent on whether or not the City Council's approval was required. The Court further noted that there was no doubt that the AUC was aware of the location of the proposed solar farm. The AUC was also aware that rezoning would be required. The ABQB held that the only conclusion that could be reached upon a reading of the AUC's decision and the approvals issued in conjunction therewith, is that the AUC approved construction of the solar power plant at the designated location in the River Valley. The ABQB continued to find that the AUC did not delegate any authority to City Council. For the ABQB to find otherwise or impose a different conclusion would defeat the purpose of section 619 of the *Municipal Government Act.* As a result, the ABQB determined that the application was moot.

The ABQB noted that, even if the matter had not been moot, the application would have been denied. In oral submissions, counsel for the Society agreed that the solar farm is not a "major public facility", to which the bylaws apply.

The standard of review, in this case, would have been reasonableness. The ABQB found it clear that there were many possible ways to construe the term "major public facility". The proposed power plant would however be fenced, and the public would not have a general right of access to the plant. No direct city funds would be used to construct the power plant. The ABQB determined it was reasonable for City Council to decide the solar plant was not a major public facility.

<u>Decision</u>

The ABQB determined that the Society's application for an order to quash Bylaw 18889 and Bylaw 18890 should be dismissed.

ALBERTA COURT OF APPEAL

***AltaLink Management Ltd. v Alberta Utilities Commission,* 2022 ABCA 18**

Permission to Appeal - Rate-Setting

In this decision, the Alberta Court of Appeal ("ABCA") granted permission to AltaLink Management Ltd. ("AML"), ATCO Electric ("AE"), ENMAX Power Corporation ("ENMAX"), and EPCOR Distribution & Transmission Inc. ("EPCOR") to appeal three decisions of the AUC. The overlapping decisions establish the treatment of expenses for the construction of electrical infrastructure related to the interconnection of the transmission and distribution systems for rate-setting purposes.

Background

The ABCA noted that the central economic issue was which type of entity, if any, was entitled to a return on the investment or capital involved in constructing certain facilities: the Distribution Facility Owner ("DFO"), the Transmission Facility Owner ("TFO"), or neither? Both were prepared to provide the necessary investment because they welcomed earning the return that would result. This economic motivation generated the AUC's concern that there is a built-in incentive for utilities to maximize capital investments because the higher the investment, the greater the capital base on which they can earn a return.

In AUC Decision 22942-D02-2019 regarding the "2018 Independent System Operator Tariff" (the "Original Decision"), the AUC approved the 2018 tariff for the Alberta Electric System Operator ("AESO"). In that proceeding, AML proposed a different treatment for customer contributions. The AUC determined that the traditional AESO customer contribution policy was compliant with the legislative scheme. However, on policy grounds, it approved the AML proposal, as a result of which TFOs would include the cost of the facility (including customer contributions) in its capital base after refunding a DFO for its Contributions in Aid of Construction/AESO Contribution.

AUC Decision 22942-D02-2019 was reviewed and varied by AUC Decision 24932-D01-2020. Subsequent to the review and variance decision, the AUC commenced a new proceeding in which the AUC examined the desirability and legality of the various approaches to the customer contribution policy. AUC Decision 24932-D01-2021 confirmed the historical treatment of prior AESO Contributions by DFOs and contemplates them making future AESO Contributions. The AUC, however, determined that future contributions would be treated as an operating expense, meaning that a DFO would be allowed to recover the contribution through its tariff, but neither DFOs nor TFOs could earn a capital return on future AESO Contributions. AML, AE, ENMAX, and EPCOR sought permission to appeal AUC Decision 26061-D01-2021.

Proposed Ground of Appeal

AML's proposed ground of appeal questioned the lawfulness of the long-established customer contribution policy. In other words, was the AUC compelled by the legislation to allow a TFO, like AML, to pay or repay the DFOs Contributions in Aid of Construction and include the resulting costs in their capital base, and earn a return on the expenditure?

AML submitted that the customer contribution policy set out in Decision 26061-D01-2021 is inconsistent with the wording and purpose of the enabling legislation because "it obscures the distinction between transmission and distribution that is at the very heart of the structure of the electric utility industry". AML argued that "asset ownership" of the transmission facilities is central to the transmission function, and that a proper interpretation of the legislation requires that Transmission System Owners be allowed to own all of their facilities.

ENMAX, EPCOR, and AE applied for permission to appeal on the basis that Decision 26061-D01-2021 would preclude any component of the electrical utility system from earning a return on an entire class of assets, namely those portions of the transmission system funded by the Contributions in Aid of Construction/AESO Contributions. They further argued that there was a breach of procedural fairness because the AUC never gave any indication that it was considering the policy where no utility would be entitled to claim these costs as capital costs.

Permission to Appeal

With respect to the procedural fairness issue, the ABCA noted that the amount of notice that the Commission must give in any particular case is a matter of degree. In this case, it was acknowledged that no specific notice was given of a possibility that neither the DFOs nor the TFOs would be allowed to earn an investment on Contributions in Aid of Construction. This departed from a long-standing practice, and no party made submissions on the particular option the AUC decided on. The ABCA held that there were two components to this issue: a) whether the adopted policy is lawful, and b) assuming it is lawful, whether it was a "good idea". The parties could have an adequate opportunity to present arguments on the first issue in an appeal, but not on the second. The ABCA consequently held that whether the AUC's notice was adequate is a serious, arguable point of law on which an appeal is appropriate.

The second proposed ground of appeal was the legality of the AUC's customer contribution policy. The ABCA noted that AML intends to argue that the governing statute gives TFOs the exclusive right to own transmission facilities, and pay for them. FortisAB and the AESO will respond that the present system has been in place for decades, and that TFOs cannot be treated differently from others who are required to make Contributions in Aid of Construction. The ABCA held that, while AML cannot point to any specific statutory provision supporting its position, the issue raises a serious, arguable point of law of general importance.

Whether a particular expenditure should be categorized as operating or investment is a question of mixed fact, law, and policy, within the mandate of the AUC. The third proposed ground of appeal was the proposition that once the AUC recognizes that a particular expenditure is capital in nature, then the statute requires that the AUC allow the utility to earn a return on that expense. Given the traditional basis on which these investments have been treated, the ABCA held that this also raises a serious, arguable point of law of general importance that warrants a review by this Court.

Decision

The ABCA granted permission to appeal on all the following questions, and allowed all of the applicants to make submissions in respect of the questions:

- The Fairness Issue: Did the AUC fail to meet the requirements of procedural fairness because inadequate notice was given of the way it intended to deal with Contributions in Aid of Construction?
- The Allocation Issue: Is the long-established AUC customer contribution policy lawful? Was the AUC compelled by the legislation to allow Transmission System Owners to pay or repay the Contributions in Aid of Construction, include the resulting costs in their capital base, and earn a return on the expenditure?
- The Return Issue: Did the Commission err in law in treating the Contributions in Aid of Construction as expenditures, rather than as capital amounts on which some component of the utility system is entitled to earn a rate of return?

Benga Mining Limited v Alberta Energy Regulator, 2022 ABCA 30

Permission to Appeal

In this decision, the ABCA denied the applications from Benga Mining Limited ("Benga"), the Piikani Nation ("Piikani"), and the Stoney Nakoda Nations ("Stoney Nakoda") for permission to appeal the AER's decision *Benga Mining Limited Grassy Mountain Coal Project, Crowsnest Pass,* 2021 ABAER 010 (the "Decision").

Background

In the Decision, the Joint Review Panel (the "Panel"), in its capacity as the AER, denied the approval of the Grassy Mountain Steelmaking Coal Project, a proposed open-pit coal mine in Southwest Alberta (the "Project").

The Panel concluded that approval of the Project was not in the public interest. The Project was likely to result in significant adverse environmental effects. The Panel additionally found that the Project would cause loss of lands used for traditional activities and that this would adversely affect Indigenous groups who use the affected area. While all Treaty 7 First Nations stated that they had no objection to the Project, the Panel concluded that the Project would cause significant adverse effects to sites of physical and cultural heritage for three Treaty 7 First Nations.

The Panel found that Benga took a limited approach to its assessment of the Project's cumulative environmental effects. The approach made it difficult to assess the magnitude of the Project's impact. The Panel further found that, in assessing the positive economic impact to the region, Benga did not consider certain risks that could reduce the Project's positive economic impacts. The mitigation measures proposed by Benga and the First Nation applicants were not sufficient to fully address the negative effects.

Test for Permission to Appeal and Analysis

When deciding whether to grant permission to appeal, the ABCA considered (i) whether the issues are of general importance, (ii) whether the issues are of significance to the Decision itself, (iii) whether the appeal has arguable merit and (iv) whether the appeal will delay the underlying proceeding. The ABCA noted that permission to appeal may not be granted on questions of fact or mixed fact and law and that it is open to it to look behind the wording of the issues as framed by applicants to determine the true nature of the issues raised: Benga's application included six proposed grounds for appeal.

Ground One: Completeness Determination Letter and Procedural Fairness

Benga argued that the Panel erred in law or denied Benga procedural fairness by issuing the Completeness Determination letter but then later concluded that some of Benga's information regarding specifics of the Project was incomplete or insufficient without requesting additional information from Benga.

The ABCA found that while this proposed ground of appeal raises a question of law or jurisdiction, permission to appeal would not be granted because this ground had no arguable merit.

Contrary to Benga's argument, the ABCA found that Section 53 of *Environmental Protection and Enhancement Act* ("*EPEA*") does not preclude the Panel from concluding that additional information was required, after issuing the Completeness Determination letter.

The ABCA determined that issuing the Completeness Determination letter and finding that a submitted Environmental Impact Assessment is complete does not equate to Project approval. The ABCA further found that the Panel had made this clear in its correspondences throughout the Project application. The Completeness Determination letter merely signaled the start of the next phase of Benga's application process.

Finally, there is no merit to Benga's submission, as outlined in its Memorandum of Argument, that it was denied procedural fairness because the Panel assured Benga that it would seek further information if necessary and failed to do so. The Completeness Determination letter did not assure Benga that further information would be sought; the Panel merely reserved the right to request further information.

Ground Two: Consideration of the South Saskatchewan Regional Plan

Benga asserted that the Panel erred by failing to consider Alberta government policy as outlined in the *South Saskatchewan Regional Plan* ("*SSRP*"). Under section 20 of the *Responsible Energy Development Act* ("*REDA*"), the Panel, acting in its capacity as the AER, is required to act in accordance with any applicable *Alberta Land Stewardship Act* ("*ALSA*") regional plans.

The ABCA denied permission to appeal on this ground as it does not raise a question of law because the issue is not that the SSRP was not considered but the weight that the Panel assigned to different portions of it.

Grounds Three and Four: The Panel Ignored Relevant and Material Evidence; The Panel Failed to Consider Rules of Expert Evidence and Reliability Concerns

Benga argued that the issue is not whether the Panel should have weighed or interpreted Benga's evidence differently, but that the Panel disregarded, overlooked, mischaracterized, or ignored material evidence from Benga and therefore erred in law.

The ABCA found that Benga's arguments amount to assertions that the Panel should have accepted Benga's evidence and preferred the evidence of its expert witnesses. It is not an error of law for a decision-maker to accept or reject evidence before it. The ABCA held that the grounds do not raise appealable issues of law or jurisdiction but questions of mixed fact and law, at best.

Ground Five: The Panel Erred in Finding Benga's Satisfaction of Alberta's Mine Financial Security Program was Inadequate

Benga's fifth proposed ground of appeal was that the Panel erred in stating that it was "concerned that the liability for long-term water quality management could fall on the future taxpayers of Alberta" notwithstanding that Benga is legally required to comply with Alberta's legislated Mine Financial Security Program.

The Panel found that Benga appears to not have explicitly accounted for any of the additional water treatment approaches that may be necessary for selenium as well as other contaminants and, as result, Benga may have significantly underestimated the costs required for long-term management and maintenance of water treatment infrastructure. The ABCA held that this proposed ground of appeal is not an error of law. Benga's proposed ground of appeal essentially seeks to challenge findings of fact, and therefore, appellate review is not permitted.

Applications from Stoney Nakoda and Piikani and Benga's Final Proposed Ground of Appeal

The ABCA determined that questions and issues raised by Piikani and Stoney Nakoda related to three themes that would underpin the proposed grounds of appeal. The first theme relates to the Panel's consideration, or lack of consideration, of positive benefits that would have accrued to Stoney Nakoda and Piikani in relation to the Project in the context of the public interest test and in the context of the honour of the Crown and reconciliation. The second theme relates to the Panel's responsibilities or obligations once it considered not approving the Project. In particular, it was argued that the Panel should have asked Stoney Nakoda and Piikani for further information or should have requested that Her Majesty the Queen in Right of Alberta engage further with Stoney Nakoda and Piikani regarding implications of not approving the Project. The third theme relates to the language of the Terms of Reference ("TOR"), which Stoney Nakoda and Piikani in particular submit gave rise to the Panel's error or errors. Benga's proposed grounds could also be categorized in these themes.

Theme One: The Panel's Consideration of the Public Interest and the Honour of the Crown and Reconciliation

The applicants argued that the Panel failed to properly consider the public interest test and the honour of the Crown when it decided not to approve the Project because it did so without considering how such a decision would impact Stoney Nakoda and Piikani.

The ABCA noted that the honour of the Crown is a "core precept" that refers to the principle that "servants of the Crown must conduct themselves with honour when acting on behalf of the sovereign". It is not a cause of action itself, but speaks to how obligations that attract it must be fulfilled. The ABCA found that the proposed issues do not have arguable merit. The ABCA noted that benefit agreements entered into by Benga and Stoney Nakoda and Piikani were not filed as evidence. The Panel stated that it did not have this evidence but could still fulfill its mandate to consider if the Project was in the public interest to an extent consistent with the honour of the Crown.

In the Decision, the Panel discussed the social and economic effects of the Project, Benga's Indigenous Commitments, the position of each participating Indigenous group, and detailed its assessment of the effects of the Project on each of them. The ABCA found that this made it apparent that the Panel had enough information to determine the Project's compliance with the public interest.

Permission to appeal was denied on all grounds relating to the Panel's consideration or positive benefits of the Project in the context of the public interest test and the honour of the Crown and reconciliation.

Theme Two: The Panel's Responsibilities or Obligations Arising from the Potential Decision not to Approve the Project

Both Stoney Nakoda and Piikani submitted that the Panel had an obligation to seek information from Stoney Nakoda and Piikani about what effect would result from the Panel's Decision not to approve the Project.

The ABCA noted that both Stoney Nakoda and Piikani were granted full participation rights in the hearing process. The ABCA held that there was no arguable merit in the suggestion that the Panel had to seek further information or ask the Aboriginal Consultation Office to seek further information about implications of non-approval after final arguments were provided. The ABCA denied permission to appeal on any of the grounds regarding the Panel's obligation to seek further information about the effect of refusing to approve the Project.

Theme Three: The TOR Language

Stoney Nakoda argued that because the TOR referenced only adverse effects, the Panel erred in failing to consider potential positive benefits associated with the Project. The ABCA noted that the TOR provided that the Panel "shall consider" potential adverse effects of the proposed project. However, considering the entire TOR, the ABCA determined that the language of the TOR does not preclude the Panel from considering possible positive socioeconomic impacts to Stoney Nakoda and Piikani and further that the Panel did consider such positive impacts that would arise if the Project was approved.

The ABCA found that there was no arguable merit to questions that suggest the Panel fettered its discretion by acting in accordance with the TOR or that the Panel made determinations respecting the validity of Aboriginal rights and interests contrary to the TOR.

Conclusion

The permission to appeal applications of Stoney Nakoda and Piikani are dismissed as the proposed grounds of appeal have no arguable merit. Benga's final proposed ground was similarly denied permission to appeal.

ALBERTA ENERGY REGULATOR

***Update on AER Review of Administration Fee (Industry Levy),* AER Bulletin 2022-01**
Industry Levy - Responsible Energy Development Act General Regulation

Since the AER's announcement regarding changes to the calculation of fees in *Bulletin 2021-37* in September of 2021, the Government of Alberta has announced changes to the *Responsible Energy Development Act General Regulation*. As part of the changes, the definition of "facility" was changed to include pipelines and some other larger facilities.

As a result of these changes, the AER will make the following changes to industry levies, in the spring of 2022:

- A new levy on pipelines based on pipeline classes determined by pipe diameter will be introduced. The levy will be phased in for spring 2022 and reflect the full amount of staff effort by 2024 as each year of effort is determined.

- A new levy on certain larger facilities will be introduced. The levy would apply to 26 gas plants with approved inlet rates greater than 10 million m^3/day and four standalone oil sands facilities. The larger facility sector allocation will be prorated based on the inlet rate for gas plants and by production capacity for standalone facilities. The levy will be phased in for spring 2022 and reflect the full amount of staff effort by 2024 as each year of effort is determined.

In addition, with effect from 1 April 2022, the AER will stop mailing paper copies of levy invoices to licensees and will send invoices by email only. Electronic invoice delivery will ensure secure delivery and create efficiencies in approval and payment processing.

ALBERTA UTILITIES COMMISSION

Amendments to Rule 019, **AUC Bulletin 2022-01**

ISO Rule Contraventions - Penalties

On January 25, 2022, the AUC approved amendments to Rule 019: *Specified Penalties for Contravention of ISO Rules*, with an effective date of February 1, 2022.

The AUC determined that the changes to Rule 019 were administrative in nature and did not necessitate a consultative process. The final approved Rule 019 and a blackline version can be found on the Rule-related consultations section of the AUC Website.

AltaLink Management Ltd., KainaiLink Limited Partnership and PiikaniLink Limited Partnership 2022-2023 General Tariff Application and AltaLink Management Ltd. 2020 Direct Assigned Capital Deferral Account Reconciliation Application, **AUC Decision 26509-D01-2022**

Electricity - General Tariff Application

In this decision, the AUC considered the 2022 and 2023 general tariff application ("GTA") and 2020 direct assigned capital deferral account ("DACDA") reconciliation application from AltaLink Management Ltd. ("AML"). The AUC also considered the 2022 and 2023 GTAs filed by AML on behalf of PiikaniLink Limited Partnership ("PiikaniLink") and KainaiLink Limited Partnership ("KainaiLink").

The AUC directed AML to make corrections in its 2022-2023 GTA reducing the applied-for revenue requirements in a compliance filing. The reductions relate to the applied-for capital expenditures for capital replacement and upgrade ("CRU") programs and information technology ("IT") and direct assigned capital programs. The AUC denied AML's applied-for tariff refund of accumulated depreciation and directed AML to remove $96 million from its opening 2022 net salvage reserve account. The AUC's directions also reduced applied-for base pay escalations and certain internal labour expenditure forecasts.

PiikaniLink and KainaiLink were directed to adjust their depreciation parameters in their 2022-2023 GTAs to align with those approved for AML in this decision and to include incremental audit and hearing costs in its revenue requirements consistent with the Alberta Court of Appeal ("ABCA")'s directions in *AltaLink Management Ltd. v Alberta (Utilities Commission).*

<u>Introduction and Background</u>

In its 2022-2023 GTA, AML requested approval of: (i) revenue requirements of $877.9 million for 2022 and $895.5 million for 2023; (ii) transmission tariffs of $811.5 million in 2022 and $835.5 million in 2023; (iii) the continued use of deferral and reserve accounts and other aspects of the proposed tariff; (iv) updated depreciation parameters as supported by a depreciation study; and (v) its compliance with past AUC directions.

In its 2020 DACDA reconciliation application, AML requested a determination of reasonable project costs for direct assigned capital projects completed in 2020, and an order disposing of the associated DACDA balances pertaining to direct assigned capital projects completed in 2020; approval of the 2020 balances for other deferral accounts; and approval of a revenue true-up for 2020 from AML's 2019-2021 GTA.

The PiikaniLink and KainaiLink applications sought approval of their respective 2022 and 2023 revenue requirements. PiikaniLink requested revenue requirements of $4.94 million in 2022 and $4.84 million in 2023. KainaiLink requested revenue requirements of $3.17 million in 2022 and $3.11 million in 2023. Both applications requested approval of the continued use of deferral and reserve accounts.

AML 2022-2023 GTA

Are AML's 2022 and 2023 Escalation Rates for its Non-Union, Union, and Executive Employees Reasonable?

AML focused on target total direct compensation ("TTDC") to measure whether its employees are reasonably compensated. AML relied on several forecasts showing that Alberta's economy will recover from the effects of the COVID-19 pandemic and the 2020 collapse in oil prices to show that it must provide its employees with market average TTDC to attract and retain qualified and high-performing employees.

The AUC determined that Alberta's economy is recovering from the effects of the COVID-19 pandemic. However, there is uncertainty as how quickly, it will fully recover. As a result of the recovery, the AUC found a modest pay increase to be reasonable. The AUC approved a base pay increase of 1.8 per cent for both the non-union and the union employee groups for each of 2022 and 2023.

Has AML Reasonably Forecast Its Operations and Maintenance Expenses, Including the Number of Full-time Equivalent Employees, As Well As Its Insurance Premiums?

AML records and tracks the costs of its operations and maintenance ("O&M") expenses using the uniform system of accounts ("USA"). The AUC found that variances of several USA accounts were material and needed detailed evaluation. AML requested approval of O&M expense amounts of $55.2 million and $57.3 million for 2022 and 2023, respectively.

The AUC was not convinced that AML's legal and regulatory full-time equivalent forecast was reasonable or that it accurately reflected the expected activity levels for the department.

The AUC approved AML's forecasted Security IT General & Administrative O&M expenses, subject to any impact directions regarding capital IT programs and projects may have. AML was directed to file a comparison of its total IT expenditures including both O&M and capital IT expenditures against other relevant comparators in the utility industry.

The AUC approved AML's insurance costs for 2022-2023, but noted that if AML continues to purchase third-party liability insurance, AML is expected to provide detailed justification in its next GTA for continuing to pay potentially increasing premiums.

Is AML's 2022 Opening Rate Base Reasonable?

The actual capital additions to rate base for AML's CRU projects for 2019, 2020, and 2021 are $146.8 million, $157.1 million, and $141.6 million, respectively. The AUC similarly considered AML's actual capital additions to rate base for IT projects, facility projects, direct assigned capital projects in 2022 and emergency spares inventory. Based on its review of the record pertaining to the actual capital additions for these items, the AUC approved the 2022 opening rate base amounts.

The AUC denied capital additions in the amount of $3.052 million to AML's 2022 opening rate base for (i) targeted right of way ("ROW") improvements in high-risk fire areas ("HRFAs") and (ii) wildfire tree removals, both of which are in AML's Transmission Line ROWs Upgrades in HRFAs Program. The AUC instead approved the amount of $1.505 million to be added to AML's 2022 opening rate base for these two project categories.

Are AML's 2022 and 2023 Capital Expenditures for its CRU Program, WMP and IT Program Reasonable

(a) CRU Program Capital Expenditure Forecasts

Issues arose regarding the reasonableness of forecast expenditures related to a number of capital or equipment related programs. AML request approval of forecasts that show increasing expenditures over the test period. AML provided insufficient supporting evidence for some expenditures and the AUC further

found that AML overestimated the needed expenditures given the state of equipment, or given the evidence provided in associated studies.

(b) Wildfire Mitigation Plan Capital Expenditure Forecast for the 2022 to 2023 Test Period

The AUC approved the forecast capital expenditures of $4.2 million in each of 2022 and 2023 under AML's Targeted Component and Structure Replacements in HRFAs Program identified under the Wildfire Mitigation Plan ("WMP") but directed AML to provide a more detailed breakdown of notifications that were resolved in a prior test period or are forecast to be resolved in the next test period.

The AUC denied 2023 forecast capital expenditures of $3.68 million to rebuild transmission lines 185L and 412L, located in HRFAs because AML did not sufficiently explain or justify these expenditures. The explanation particularly lacked detail regarding the requirement of a facility application and potential outstanding landowner concerns.

(c) IT Capital Expenditures Forecast for the 2022 to 2023 Test Period

The AUC found the forecast IT capital expenditures to be reasonable with the exception of the expenditures related to a number of specifically identified projects. The AUC found that the costs associated with the individual projects would not provide sufficient benefits, or the benefits suggested by AML. The AUC found that the evidence provided suggested that AML had not sufficiently explored viable, more cost-effective options to reduce costs or to take steps to prevent the expenditures altogether.

Has AML Reasonably Forecast its 2022 and 2023 Capital Expenditures for its Direct Assigned Capital Projects?

The central issue was the timing of the forecast for 2022-2023 capital expenditures for system transmission projects. AML indicated that there was some uncertainty surrounding timing of the Central East Transfer Out Project including possible delays to the in-service date. As a result, the AUC directed AML to remove forecast capital expenditures of $5.4 million in 2022 and $53.1 million in 2023 for this project in its compliance filing. Similar uncertainties arose regarding the Nilrem to Vermillion Project and its costs and the AUC denied the applied-for capital expenditures of $59.2 million in 2022 and $40.6 million in 2023. AML was directed to remove forecast capital expenditures of $21.4 million for 2022 and $31.0 million for 2023 for the Provost to Edgerton Project, and $1.7 million in each of 2022 and 2023 for the Chapel Rock to Pincher Creek Project, for the same reasons.

Should AML's Requests Related to Depreciation be Approved?

AML applied for approval to change service life or Iowa curve (life-curve) depreciation parameters for 11 of its 14 depreciation study accounts. The effect of these life-curve changes would be a reduction in AML's depreciation expenses when compared to maintaining the current life-curve parameters used to compute AML's depreciation rate.

The AUC denied AML's request to refund $120 million of accumulated depreciation life surplus in 2022-2023. The AUC was not persuaded that the exceptional economic circumstances needed to approve the tariff refund that would result in higher transmission rates, will continue in 2022 and 2023, when AML's proposed refund would be put into effect. In this respect, the AUC found that the reasoning of Decision 26248-D02-2021, where the AUC authorized a refund of accumulated depreciation in the amount of $80 million, does not continue to apply.

AML's reporting of actual 2019-2020 and forecast 2021 net salvage costs was found to be insufficient. The limited information provided by AML in support of the prudency of the actual costs incurred did not allow the AUC to accurately determine the prudency. The AUC directed AML to remove the amounts from its 2022 opening net salvage reserve account.

Is AML's Forecasted Necessary Working Capital Reasonable?

AML proposed a change to its necessary working capital calculation. After its previous lead lag study, AML began paying its equity distributions to its partners on a monthly rather than quarterly basis to align AML's balance sheet with the AUC approved capital structure. The AUC denied the request as its approval would lead to electricity ratepayers bearing higher transmission rates that are attributable to more frequent distributions of equity to AML's partners. The AUC determined this to be unreasonable.

Should AML's Special Facilities Charge be Approved?

AML applied for approval of a special facilities charge that would apply to transmission assets that are customer-owned but would be purchased by AML. Following the purchase, the customer would pay a special facility charge for use of the asset and AML's shareholders would accept all risk of potential customer default while retaining a premium for accepting this risk.

The AUC denied the special facilities charge. The AUC saw no reason to regulate transmission assets subject to a special facilities charge. It was not convinced that the charge would benefit the ratepayers and noted that the charge is inconsistent with the *Electric Utilities Act* as it would result in AML, as a transmission facility owner, having a tariff relationship with individual customers.

Should AML's Termination of its Service Agreement with TransAlta Utilities Corporation be Approved?

AML included transmission revenue offsets as part of its application. The offsets include revenue AML expects to earn by providing O&M services for transmission assets owned by TransAlta Utilities Corporation ("TransAlta"). AML submitted that the O&M agreement from April 29, 2002 (the "Agreement") terminates April 29, 2022. The AUC was not convinced that AML could terminate the Agreement or that the Agreement effectively expires on April 29, 2022, considering a 5-year extension clause. The AUC decided to fix revenue requirement offsets connected with the Agreement at the level forecast by AML over this test period on a placeholder basis.

AML 2020 DACDA Reconciliation Application

AML applied for approval and reconciliation of direct assigned capital projects that were completed in 2020 as well as all 2020 trailing costs considered in prior DACDA proceedings, all other deferral account balances, and a revenue true-up for the year 2020 in relation to amounts determined in its 2019-2021 GTA.

The AUC found adding the actual costs associated with the direct assigned capital projects to the rate base to be reasonable. The AUC also approved the actual costs spent on direct assigned capital and associated DACDA balances for the direct assigned projects completed in 2020, and the 2020 revenue true-up of AML's 2019-2021 GTA, resulting in a one-time charge to the Alberta Electric System Operator ("AESO") of $0.4 million. The AUC noted that ongoing disputes involving the litigation of defective helix spacer dampers installed on 14 AML projects and foundation deficiencies for transmission lines 675L and 676L on the Medicine Hat 138 kV Area Reconfiguration Project remain unresolved. As the litigation is still ongoing, the AUC approved the placeholder treatment again. AML was directed to submit a request for final approval of these costs, including all trailing costs, in the next DACDA proceeding.

PiikaniLink and Kainai 2022-2023 GTAs

The ABCA allowed the appeal in respect of AUC Decision 22612-D01-2018. Several changes therefore needed to be made to the GTAs of PiikaniLink and KainaiLink to accord with the judgment of the ABCA. Contrary to the AUC's decision, the ABCA allowed including incremental audit and hearing costs as part of general and administrative costs in PiikaniLink's and KainaiLink's GTAs. AML was directed to include the incremental costs as part of its revised Minimum Filing Requirement schedules and respective revenue requirements, in accordance with the ABCA's decision.

In Decision 22612-D01-2018, the AUC had deferred the decision regarding deferral account treatment of annual structure payments (“ASP”) and payment in lieu of taxes (“PILOT”) and raised the concern that the Piikani and Kainai Nations may be incented to seek increases in the amount of ASPs and PILOT. In this proceeding, the AUC approved the ASP and PILOT deferral accounts.

Order

AML was directed to file its 2022-2023 transmission GTA compliance filing, in respect of the AUC’s findings and to charge $0.4 million through a one-time billing to the AESO to dispose of its final settlement balances for its 2020 DACDA. PiikaniLink and KainaiLink were directed to file individual compliance filings to their 2022-2023 transmission general tariff applications.

***ATCO Pipelines, a Division of ATCO Gas and Pipelines Ltd. Updated Placeholder for the Acquisition of the Pioneer Pipeline in Compliance With Decision 25937-D01-2021 and Decision 26443-D01-2021,* AUC Decision 27053-D01-2022**

Pipeline Acquisition - Placeholder Treatment

In this decision, the AUC approved the application from ATCO Pipelines, a division of ATCO Gas and Pipelines (“AGP”), to revise the zero-dollar placeholder approved in Decision 25663-D01-2021 regarding ATCO Pipelines’ 2021-2023 general rate application (“GRA”), and Decision 25937-D01-2021 regarding the acquisition of the pipeline and the inclusion of acquisition costs in the revenue requirement. The AUC approved a revision of the placeholder to $9.99 million for 2021, $16.46 million for 2022 and $15.12 million for 2023, which increases the total revenue requirement for ATCO Pipelines to $319,984,000 in 2021, $341,814,000 in 2022, and $350,506,000 in 2023.

The acquisition of the Pioneer Pipeline was completed on June 30, 2021, and in December, ATCO Pipelines filed the request to update the zero-dollar placeholder for the purchase of the pipeline. On January 4, 2022, ATCO Pipelines notified the AUC that the CER approved the applications from NOVA Gas Transmission Ltd. (“NGTL”) to purchase and operate the portion of the Pioneer Pipeline that falls within NGTL’s Pipeline Facilities Footprint from ATCO Pipelines.

Should the AUC Approve ATCO Pipelines’ Application to Update the Pioneer Pipeline Placeholder?

ATCO Pipelines will own and operate the NGTL Footprint Pipeline Facilities and the Pioneer Pipeline and related facilities providing utility service to customers as part of the integrated system until the transaction between ATCO Pipelines and NGTL closes in 2022. The AUC therefore found that it is reasonable to include the the asset held for sale by NGTL, as well as its necessary working capital and operating costs in ATCO Pipelines’ revenue requirement.

The AUC approved continued placeholder treatment of the costs of the Pioneer Pipeline until the transfer of the NGTL Footprint Pipeline Facilities to NGTL has been completed. The AUC directed ATCO Pipelines to true-up and finalize the placeholder amounts for 2021-2023 in the next rate application.

The AUC approved the application from ATCO Pipelines, subject to the directions listed in the decision.

***ATCO Power (2010) Ltd. Deerfoot Solar Project,* AUC Decision 26892-D01-2022**

Facilities - Solar

In this decision, the AUC approved the applications from ATCO Power (2010) Ltd. (“ATCO”) to construct and operate the 37-megawatt (“MW”) Deerfoot Solar Power Plant (the “Power Plant”) and to connect the Power Plant to the ENMAX Power Corporation (“ENMAX”) electric distribution system (the “Project”).

Applications

The Power Plant will consist of rack-mounted solar photovoltaic modules and 12 inverter/transformer stations on 244 acres of private, freehold land near 114 AVE and 52 St. in the South East of Calgary.

The applications submitted by ATCO included a participant involvement program, noise impact assessment, environmental assessment and conservation and reclamation plan and an exemption from the requirement to provide an environmental evaluation report issued by Alberta Environment and Parks. The application also included an evaluation of ATCO's risk management plan for the phosphogypsum stacks in the Project footprint, a solar glare assessment, *Historical Resource Act* approval and a site-specific emergency response plan. ATCO also submitted confirmation that ENMAX is prepared to allow the interconnection.

Construction is expected to start by March 2022. ATCO expects the Project to be in service by December 3, 2022, and applied for a construction completion date of June 3, 2023, to provide a buffer for procurement delays.

AUC Findings

The AUC was satisfied that the information requirements set out in Rule 007: *Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines* had been met.

The Project will be located on capped phosphogypsum stacks in an area zoned for industrial development with limited development potential. ATCO submitted that it would not disturb the integrity of the stacks and that ATCO would continue to meet the obligations associated with the existing *Environmental Protection and Enhancement Act.*

Alberta Environment and Parks did not prepare a renewable energy referral report for this Project because of its location within Calgary city limits and because the *Wildlife Directive for Alberta Solar Energy Projects* does not apply to projects in urban areas. The AUC accepted that the report is not required and agreed with the submission that the site avoids interference with known wildlife habitats.

The solar glare assessment predicted that six dwellings, Deerfoot Trail, five local roads and a heliport would experience varying amounts of glare. However, the solar glare assessment concluded that the Project is not likely to create hazardous glare conditions for nearby dwellings, transportation routes, or the heliport.

The AUC found that the predictions of the solar glare assessment were reasonable. As this assessment assumed that the panels of the Project would use an anti-reflective coating, the AUC imposed the application of this coating as a condition for approval of the Project.

Further, while no objections to the Project were raised by the heliport's owner, the AUC imposed a condition of approval, that ATCO files a report with the AUC detailing any complaints or concerns it receives or is made aware of regarding solar glare from the Project during its first year of operation, as well as its response to the complaints or concerns. This report is required to be filed no later than 13 months after the Project becomes operational.

As the selection of equipment had not been finalized, the AUC also imposed as a condition of approval that once ATCO had finalized the selection of equipment, ATCO must file a final Project update to the AUC to confirm that the Project has stayed within the final Project update specified allowances for solar power plants. The final Project update must be filed at least 90 days prior to the start of construction.

Decision

The AUC determined that approval of the applications is in the public interest, as required by Section 17 of the *Alberta Utilities Commission Act.*

Pursuant to Section 11 of the *Hydro and Electric Energy Act*, the AUC approved the application for construction and operation of the Power Plant. The application to connect the Power Plant to the ENMAX distribution system was approved pursuant to Section 18 of the *Hydro and Electric Energy Act.*

Balancing Pool Application for an Order Permitting the Sharing of Records Not Available to the Public Regarding The Brooks Solar II Power Plant, **AUC Decision 27093-D01-2022**
Market Oversight and Enforcement - FEOC

In this decision, the AUC approved the application by the Balancing Pool for an order to permit the sharing of records pertaining to the electricity and ancillary services markets under Section 3 of the *Fair, Efficient and Open Competition Regulation* ("*FEOC Regulation*").

Introduction and Procedural Background

The Balancing Pool filed an application for permission to share records that are not available to the public between Balancing Pool, Brooks Solar II Corporation ("Brooks Solar"), Elemental Energy Inc. ("Elemental Energy"), Elemental Energy Renewables Inc. ("EERI") and URICA Energy Real Time Ltd. ("URICA"). The requested order relates to the Brooks Solar II Power Plant, located in Newell County, which has a combined maximum capability of 26.5-megawatts ("MW"), with 12.5 MW at asset ID BRK1 and 14.0 MW at asset ID BRK2.

AUC Findings

Subsection 3(3) of the *FEOC Regulation* authorizes the AUC to issue an order permitting the sharing of records on any terms and conditions that the AUC considers appropriate, provided that specific requirements are satisfied. The AUC found that these requirements were met in this application.

Section 7 of the *Small Scale Generation Regulation* states that "unless…request[ed] otherwise, the Balancing Pool (a) must act as the electricity market participant on behalf of the small scale power producer in dealings with the ISO in respect of the electric energy supplied by the small scale power producer's small scale generating unit." The AUC found that Brooks Solar qualifies as a small scale power producer and is therefore represented as an electricity market participant by the Balancing Pool.

In its application, the Balancing Pool indicated that it has entered into commercial arrangements with URICA, which, among other things, appoint URICA as an agent of the Balancing Pool to provide 24-hour real-time dispatch-desk service for operational energy market services and energy restatements for events at BRK1 and BRK2. These arrangements will make it necessary for the Balancing Pool, Brooks Solar, Elemental Energy, EERI and URICA to share with each other certain records that are not otherwise available to the public, including operational and dispatch information, energy price, volume pairs and available capability.

The AUC was satisfied that the Balancing Pool had demonstrated that (i) the sharing of records is reasonably necessary for it to carry out its business; (ii) that the subject records would not be used contrary to the fair, efficient, and openly competitive operation of the Alberta electricity market, including the conduct referred to in Section 2 of the *FEOC Regulation*; and (iii) that the applicants would conduct themselves in a manner that would support the fair, efficient and openly competitive operation of the market.

The AUC further found that the offer control limit of the entities was less than 30 per cent, as required by Subsection 5(5) of *FEOC Regulation*. The AUC noted that the Market Surveillance Administrator ("MSA") supported the application.

Given the mandate of the MSA under Subsection 39(2)(a)(vi) of the *Alberta Utilities Commission Act*, the AUC considered the MSA's support of this application to have been a contributing factor in the decision to permit the sharing of records.

The AUC approved the applied-for sharing of records, subject to terms and conditions set out in the decision.

***Balancing Pool Application for an Order Permitting the Sharing of Records Not Available to the Public Between the Balancing Pool, Concord Monarch GP2 Ltd., Concord Monarch Partnership and URICA Energy Real Time Ltd.,* AUC Decision 27030-D01-2022**

Market Oversight and Enforcement - FEOC

In this decision, the AUC approved the application by the Balancing Pool for an order to permit the sharing of records pertaining to the electricity and ancillary services markets under Section 3 of the *Fair, Efficient and Open Competition Regulation* ("*FEOC Regulation*").

Introduction and Procedural Background

The Balancing Pool filed an application for permission to share records that are not available to the public between Balancing Pool, Concord Monarch GP2 Ltd. ("Concord Monarch"), Concord Monarch Partnership, and URICA Energy Real Time Ltd. ("URICA"), relating to the 23.6-megawatt Monarch Solar Project (the "Project") to be constructed near the town of Monarch.

AUC Findings

Subsection 3(3) of the *FEOC Regulation* authorizes the AUC to issue an order permitting the sharing of records on any terms and conditions that the AUC considers appropriate, provided that specific requirements are satisfied. The AUC found that these requirements were met in this application.

In its application, the Balancing Pool indicated that it has entered into commercial arrangements with URICA, which, among other things, appoint URICA as an agent of the Balancing Pool to provide 24-hour real-time dispatch-desk service for operational energy market services and energy restatements for events at the Project. These arrangements will make it necessary for the Balancing Pool, Concord Monarch, Concord Monarch Partnership and URICA to share with each other certain records that are not otherwise available to the public, including operational and dispatch information, energy price, volume pairs and available capability.

The AUC was satisfied that the Balancing Pool had demonstrated that (i) the sharing of records is reasonably necessary for it to carry out its business; (ii) that the subject records would not be used contrary to the fair, efficient, and openly competitive operation of the Alberta electricity market, including the conduct referred to in Section 2 of the *FEOC Regulation*; and (iii) that the applicants would conduct themselves in a manner that would support the fair, efficient and openly competitive operation of the market.

The AUC further found that the offer control limit of the entities was less than 30 per cent, as required by Subsection 5(5) of *FEOC Regulation*. The AUC noted that the Market Surveillance Administrator("MSA") supported the application.

Given the mandate of the MSA under Subsection 39(2)(a)(vi) of the *Alberta Utilities Commission Act*, the AUC considered the MSA's support of this application to have been a contributing factor in the decision to permit the sharing of records.

The AUC approved the application.

***ENMAX Power Corporation Update to Distribution Tariff Terms and Conditions Fee Schedule,* AUC Decision 27111-D01-2022**

Electricity - Rates

In Decision 26844-D01-2021, the AUC approved the request from ENMAX Power Corporation ("ENMAX") to make adjustments to its customer and retailer terms and conditions ("T&Cs") (the "Approval Decision"). This included that all retailers, in addition to the default supplier and regulated rate provider, are now allowed to request ENMAX to de-energize and re-energize a customer site.

In its application ENMAX specified what amendments were needed to its T&Cs fee schedules to effect the changes set out in the Approval Decision. The AUC approved the applied-for amendments, as it determined that they were necessary to align with the changes to ENMAX's T&Cs set out in the Approval Decision, effective February 1, 2022.

TransAlta Generation Partnership Application for Orders Permitting the Sharing of Records Not Available to the Public Between TransAlta Corporation, TransAlta Generation Partnership, TransAlta Alberta Hydro LP and URICA Energy Real Time Ltd, **AUC Decision 27085-D01-2022**

Market Oversight and Enforcement - FEOC

In this decision, the AUC approved the application by the TransAlta Generation Partnership ("TransAlta GP") for an order to permit the sharing of records pertaining to the electricity and ancillary services markets under Section 3 of the *Fair, Efficient and Open Competition Regulation* ("*FEOC Regulation*").

Introduction and Procedural Background

TransAlta GP filed an application seeking permission to share records that are not available to the public between TransAlta GP, TransAlta Corporation ("TransAlta Corp."), TransAlta Alberta Hydro LP ("TransAlta Hydro") and URICA Energy Real Time Ltd. ("URICA"). The application relates to records regarding the Keephills 1 ("KH1") and Keephills 2 ("KH2") generating units, each with a capacity of 406 megawatts ("MW"). TransAlta GP also requested permission to share records between TransAlta Corp., TransAlta Hydro, and URICA, relating to the following generating assets: Sundance 4, Sundance 5, Sundance 6, KH1, KH2, Keephills 3 ("KH3"), Bow River Hydro, Brazeau Hydro, Bighorn Hydro, and Small Power Producers.

AUC Findings

Subsection 3(3) of the *FEOC Regulation* authorizes the AUC to issue an order permitting the sharing of records on any terms and conditions that the AUC considers appropriate, provided that specific requirements are satisfied. The AUC found that these requirements were met in this application.

The AUC was satisfied that TransAlta GP had demonstrated that (i) the sharing of records is reasonably necessary for it to carry out its business; (ii) that the subject records would not be used contrary to the fair, efficient, and openly competitive operation of the Alberta electricity market, including the conduct referred to in Section 2 of the *FEOC Regulation*; and (iii) that the applicants would conduct themselves in a manner that would support the fair, efficient and openly competitive operation of the market.

The AUC also found that the offer control limit of the entities was less than 30 per cent, as required by Subsection 5(5) of *FEOC Regulation*. The AUC also noted that the Market Surveillance Administrator supported the application.

The AUC consequently approved the applied-for sharing of records, subject to terms and conditions set out in the decision.

Versorium Energy Ltd. Berkinshaw 1 Distributed Energy Resource Power Plant, **AUC Decision 27052-D01-2021**

Facilities - Gas

In this decision, the AUC approved the applications from Versorium Energy Ltd. ("Versorium") to construct, operate and connect a 5.044-megawatt natural gas-fired Berkinshaw 1 Distributed Energy Resource Power Plant (the "Power Plant") and connect it to the ATCO Electric Ltd. ("AE") distribution system (the "Project").

Applications

The Project will be located on private, cultivated land, 6.5 kilometers east of Alliance, Alberta. It will include two gas-fired reciprocating engines with a nominal capability of 5.044 megawatts, a switchgear building, a generator

step-up transformer, a low-pressure natural gas pipeline to connect to the Phoenix Gas Co-op Ltd. natural gas system, and a distribution line to connect to the AE distribution system.

The applications submitted by Versorium included a participant involvement program, noise impact assessment (“NIA”), air quality assessment report, environmental evaluation report and a letter of non-objection from AE, confirming it is prepared to allow the interconnection.

Construction is expected to be carried out in September and August of 2022. Versorium expects the Project to be in service by December 31, 2022, and applied for a construction completion date of December 31, 2023, to account for unforeseen delay and to mitigate the requirement to apply for an extension.

AUC Findings

The AUC was satisfied that the application provided all information required by Rule 007: *Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines.* The AUC was further satisfied that the requirements of Rule 012: *Noise Control* had been met and that the Project would abide by the *Alberta Ambient Air Quality Objectives* and the *Multi-Sector Air Pollutant Regulations.*

Versorium submitted an *Environmental Protection and Enhancement Act* application to Alberta Environment and Parks on December 16, 2021, but had not received feedback on the application at the time of this decision.

Decision

The AUC determined that approval of the applications is in the public interest, as required by Section 17 of the *Alberta Utilities Commission Act.*

Pursuant to Section 11 of the *Hydro and Electric Energy Act*, the AUC approved the application for construction and operation of the Power Plant. The application to connect the Power Plant to the AE distribution system was approved pursuant to Section 18 of the *Hydro and Electric Energy Act.*

***Versorium Energy Ltd. Gillespie 1 Distributed Energy Resource Power Plant*, AUC Decision 27057-D01-2022**

Facilities - Distributed Energy

In this decision, the AUC approved applications from Versorium Energy Ltd. (“Versorium”) to construct and operate the 5.044-megawatt (“MW”) natural gas-fired Gillespie 1 Distributed Energy Resource Power Plant (the “Power Plant”) and to connect the Power Plant to the FortisAlberta Inc. electric distribution system (the “Project”).

Applications

The Project will be located on private, cultivated land, approximately 14.5 kilometers northwest of Provost. The Project will consist of two gas-fired reciprocating engines, with a nominal capability of 5.044 MW, a switchgear building, a generator step-up transformer, a low-pressure natural gas pipeline to connect to the Natural Gas Co-op 52 Ltd. natural gas system, and a distribution line to connect to the FortisAlberta Inc. electric distribution system.

The applications from Versorium included a participant involvement program, noise impact assessment, air quality assessment report, environmental evaluation report and a letter from FortisAlberta Inc. confirming that they are prepared to allow the interconnection. The submitted reports and evaluations indicated that concerns or issues had been addressed or mitigated.

Construction is expected to complete in October 2022. Versorium expects the Project to be in service by October 31, 2022. To account for unforeseeable delay and mitigate the possibility of requiring an extension, Versorium requested a construction completion date of December 31, 2023.

<u>AUC Findings</u>

The AUC determined that the applications met the information requirements set out in Rule 007: *Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines.*

The AUC was satisfied that the applications indicated that the Project would abide by Rule 012: *Noise Control* and meet the values of the *Alberta Ambient Air Quality Objectives* and *Multi-Sector Air Pollutant Regulations*. The AUC further accepted the submissions that the Project will not result in significant adverse effects on the environment.

Versorium submitted an *Environmental Protection and Enhancement Act* application to Alberta Environment and Parks on December 17, 2021, but had not received feedback on the application by the time of this decision.

<u>Decision</u>

The AUC determined that approval of the applications is in the public interest, as required by Section 17 of the *Alberta Utilities Commission Act.*

Pursuant to Section 11 of the *Hydro and Electric Energy Act*, the AUC approved the application for construction and operation of the Power Plant. The application to connect the Power Plant to the FortisAlberta Inc. electric distribution system was approved pursuant to Section 18 of the *Hydro and Electric Energy Act.*

CANADA ENERGY REGULATOR

***NOVA Gas Transmission Ltd. Application for Firm Transportation – Linked North Montney Service,* CER Proceeding RH-001-2021**
Tolls - Rates

In this decision the CER provided its decision regarding some of the requests contained in an application by NOVA Gas Transmission Ltd. ("NGTL") related to its proposed Firm Transportation – Linked North Montney ("FT-L (NM)") Service.

NGTL applied for an order (1) approving the FT-L (NM) Service, including the proposed tolling methodology, Rate Schedule FT-L (NM) and consequential amendments to the NGTL Tariff; (2) Designating the Willow Valley Interconnect delivery point as a Group 1 delivery point for the purpose of Firm Transportation – Delivery service and other delivery services for the NGTL System; and (3) Affirming the tolling methodology approved in the RH-001-2019 Decision and OrderTG-002-2020 for existing services that utilize the North Montney Mainline.

NGTL requested an expedited decision with regard to requests (1) and (2). The CER issued an expedited decision regarding the first two requests and will issue the reasons for the decision as well as its decision on the third request later.

The CER denied NGTL's request for approval of the FT-L (NM) Service and approved NGTL's request to designate the Willow Valley Interconnect ("WVI") delivery point as a Group 1 delivery point for the purpose of Firm Transportation – Delivery service and other delivery services for the NGTL System.