

### Legal Services Information

The Municipal Development Plan (also known as the Way We Grow) is Council's vision for the City, it is not a Council Policy. It contains policy statements that lend themselves to that vision. It is not binding, per section 637 of the *Municipal Government Act*.

#### **Review of AUC Application:**

#### **AUC Timelines:**

- Initially, the deadline to file a Statement of Intent (SIP) to intervene was December 28, 2018 (Exhibit 23943-X0051, issued November 9, 2018)
- Statement of Intent to intervene deadline was then extended until January 8, 2019 (Exhibit 23943-X0067, issued December 18, 2018).
- On March 22, 2019 the AUC issued a ruling granting numerous parties standing to participate in the proceeding (Exhibit 23973-X0176 issued March 22, 2019).
- Throughout the process, the Commission issued two rulings on standing (Exhibits 23943-X0176 (issued March 22, 2019 and 23943-X0187 issued June 21, 2019)

#### **Summary of the Standing decisions:**

The Commission set January 8, 2019 as the deadline for the filing of SIPs and of the 120 SIPs that were filed, all but 8 were filed on or prior to the deadline of January 8, 2019.

Consumers Coalition of Alberta: one day late and were given standing in the Commission's decision of March 22, 2019.

Crestwood Realty: filed February 1 and were given standing in the Commission's decision of March 22, 2019.

Elmwood Residents Group: SIP filed by counsel to the group of Elmwood residents that already filed SIPs.

190 Street Residents Group: SIP filed by counsel to the group of residents that already filed SIPs.

Boardwalk Rental Communities: was the subject of the decision dated March 22, 2019.

**AUC Intervenors:**

- Lynnwood Community League (69 individuals listed): represented by Ackroyd LLP (Richard Secord and Ifeoma Okoyo):
- 190 Street Residents Group (20 individuals listed): represented by Bishop Law
- Elmwood Residents Group (28 individuals listed): represented by Eva Chipiuk
- Aldergrove community (52 individuals listed): represented by resident,
- Boardwalk Properties (the property management company that operates an apartment building in the Meadowlark area): represented by an employee of Boardwalk.
- Consumers Coalition of Alberta (the CCA) also participated in the hearing. The CCA is a consumer watchdog agency that represents the customer from a financial perspective. In the hearing, they challenged the need for the line.

All of the intervenors, except for Boardwalk and the CCA, wanted the Transmission Line to be routed elsewhere, or, if not elsewhere, then they wanted the Transmission Line buried. Each of these groups, with the exception of Boardwalk, applied for and received AUC-approved costs associated with the hearing. The intervenors worked together (where their interests aligned) and shared their experts. They retained experts related to visual impacts, electric and magnetic fields (EMF), noise and property valuations. Approximately 50 individuals also appeared as witnesses in the proceeding.

On June 4, 2019, Councillor Knack made and then withdrew a motion to intervene in this hearing to support underground lines. As discussed at that time, the AUC's publicly stated deadline to intervene was January 8, 2019 and intervening at that point would have had the potential to delay EPCOR. Additionally, the City of Edmonton would have only been one extra intervenor, duplicating the efforts of the over 150 citizens who already intervened.

In its March 2020 decision, the AUC indicated that if the City is prepared to fund the incremental costs to bury all or part of the proposed line, the Commission would *consider* such an application from the City under Section 17 of the *Hydro and Electric Energy Act* (outlined below).

The outcome from the AUC hearing still allows the City to apply for the underground lines without the internal and external expert expense of having intervened in the earlier process.

**Construction Timelines:**

Construction timeline for portion of the line from Whitemud drive, north along 156 street to the Meadowlark substation:

- EPCOR has completed system design, geotechnical work and procured a portion of major materials and has entered into the construction contract;
- the contractor is currently scheduled to start this portion of the line in July, 2021;
- this is subject to: weather, pole delivery and coordination with EPCOR's distribution function for the distribution underbuild (the existing distribution line has to be modified so that it sits under the new transmission line);

- if any of these variables causes a delay, construction might not start until August.

**EPCOR:**

EPCOR does not have a mechanism to create a rider that would allow the Lynwood residents to pay the incremental costs of burying this portion of the line. If the City was willing to pay for the undergrounding of a section or all of the Transmission Line, it would be done so through a capital contribution to EPCOR to offset EPCOR's incremental costs. If the City chose to fund the undergrounding of the Transmission Line, the decision on how the City wants to recoup these costs is up to the City itself.

**Section 17 of the Hydro and Electric Energy Act**

In the AUC Decision (Decision 23943-D01-2020, dated March 12, 2020), at paragraph 470, the AUC finds that the incremental impacts of the preferred route are not significant enough to warrant the costs of undergrounding all or any part of the transmission line. The AUC acknowledges the City's Bylaw 15100 and provides "In the event that the City of Edmonton is prepared to fund the incremental costs to bury any part of the proposed line, the Commission would consider such an application under Section 17 of the *Hydro and Electric Energy Act*."

Section 17 provides:

17(1) The Commission may, on any terms and conditions it considers proper, direct a permittee or licensee to alter or relocate any part of the permittee's or licensee's transmission line if in the Commission's opinion the alteration or relocation *would be in the public interest*.

(2) The Commission may, in an order under subsection (1), provide for the payment of compensation and prescribe the persons by whom and to whom the compensation is payable.

(3) When an order under this section provides for the payment of compensation, the Commission may at any time provide that if agreement on the amount of compensation cannot be reached between the parties, the amount is to be determined by the Alberta Utilities Commission on the application of either party.

For clarity, an application under section 17 would not constitute an appeal or reconsideration of the AUC's decision or any of its finding, including that the additional costs of undergrounding are not warranted by the incremental impacts and therefore, not in the public interest. For example, the AUC would not prescribe that EPCOR (and therefore, ratepayers) would pay for the additional costs of undergrounding. Rather, an application under section 17, if accepted, would simply alter EPCOR's regulatory authorization to allow the undergrounding to occur (upon certain terms and conditions) at the expense of the City.

There is no specific procedure outlined by the Rules of the AUC for an application under section 17. Previous applications under this section appear to have been made to the AUC by way of letter. However, previous decisions of the AUC have indicated that applications under section 17 are to be accompanied by a proposal for cost sharing, demonstrating the additional costs (for the relocation of the lines underground) that the party applying will pay.