Draft Amendment of Rule 009

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Participants in Proceedings 22563, 23638, 25047, 27691, 28689 & 25469

Basis for this submission.

Thank you for this opportunity to make this submission. Our hope is to help the AUC make informed changes to Rule 009 given from a landowner's experience having participated in multiple AUC processes that will be constructive with recommendations and questions of the current AUC process and the considerations under review of approving transmission development in Alberta without unnecessary processes that result in losses to landowners and their rural security of financial and physical well-being.

In Bulletin 2024-20 the AUC 'asks for input into the "draft amendments to Rule 009: Rules on Local Intervener Costs" we thought it might be informative to use AUC approvals of Halkirk 2 Wind Project as a working example. We ask for your indulgence if you could, as we already had 2 charts covering our community's entire experience of participating in AUC proceedings and the costs that we know of, which includes information that may not have been requested for this review but it does bare information that is pertinent for your consideration and can be applied to the understanding of what the application of the current rule looks like in practice and what the proposed changes and the possible effects could be. These 2 charts document a real-life AUC experience through the History of H2 Chart (on parge 11 with references on page 12 & 13) of the AUC original approval for Halkirk 2 Wind Project (H2) and the subsequent 2 AUC hearings & multiple proceedings, 6 SDABs, 1 Court of Appeal, multiple complaints to multiple government agencies including AUC Enforcement. It also takes into account the AUC processes and the ripple effect of the added transmission because of the original approval of Capital Power's Halkirk Wind now referred to as Halkirk 1. The second charts record the known Cost of Halkirk 2 Wind Project (on pages 14 & 15) continues documenting the known cost of each of the processes absent of the cost of the AUC administration and other government offices that have responded to multiple complaints reported since the AUC original approval of H2 and their cost. (the underlined will reference each chart).

In addition, we have included the "serious incident" that occurred on November 8, 2024 of Capital Power's Turbine 33 in the Halkirk 2 Wind project resulting in the AUC Order 27691-D04-2024 issued involving the nacelle and rotors of a turbine falling to the ground during the testing phase. Thankfully no one was injured although if this had been the day before there was a reclamation operator from the area hired by CP to work the soil around the turbine. This project is situated in the most densely populated area of the County of Paintearth. This is horrifying and as we were preparing this submission to have this occur is just remarkable and has caused us and our community distress that is hard to put into words. This community has from the beginning questioned the false information and reported the misconduct of CP and now this. **Are we safe?**

This submission provides a documented history of AUC approvals based on false information and misconduct that were not substantiated by the AUC and now our worst fears are unfolding before our eyes. As much as the AUC insists on limiting place, time and information we ask that you consider this submission as a reflection of what AUC

approvals to build industrial wind projects in the middle of rural residential communities truly is and take the concerns of the resident landowners more seriously and refrain from discounting landowners as not worthy to present expert evidence regarding rural life in Alberta and the effects of industrial development in the middle of where they live and work.

From our perspective each AUC Rule cannot be isolated and evaluated without seeing the domino affect each decision has on a single approval. Again, these charts contain information of AUC approvals of one wind project and are presented to give context of some of the effects taken all together. The monetary and informative value of the lawyers, agents and experts are explored through these H2 AUC approvals.

Honesty & Transparency to be required and enforced by the AUC.

It is valid to note that in recent AUC decisions 27013 and 29109 the AUC had determined that penalties were required by the AUC when false information had been filed with the AUC to maintain the integrity of the AUC processes and to rebuild the trust of the public that the AUC is responsible to protect.

Documented allegations of false information and misconduct were not substantiated by the AUC in the original proceeding 22563 for H2 resulting in a letter sent to us on July 29, 2022 that told us to stop discrediting CP and their land agents because the AUC knew of the complaints and approved it anyways. This is just one of the negative affects of the bullying that continues to this date of which there are many that we have documented in this submission of the imperative need for honesty, transparency & enforcement/accountability to reduce the actual cost of approving projects that are based on false information and misconduct:

Recommendation: The AUC must substantiate all allegations of false information and misconduct. This could have a huge impact on rebuilding the public's trust and will likely result in incredible savings to the AUC processes and to the public's financial wellbeing as we will show in this submission.

A brief History of the origin of Halkirk 2 Wind Project and why it is important to this review.

We were able to add as a bonus the real-life experience of living through construction of 2 industrial projects simultaneously. This includes the AUC approval of CETO 2021 beginning at Capital Power's Tinchebray Substation operated by ATCO, that was originally approved by the AUC in 2011 based on false information filed by ATCO consisting of ATCO falsely stating no other approvals were required. But after construction of the substation, ATCO then filed an amendment to the AEP for a preexisting water ditch not identified by ATCO in the original application with the AUC and then ATCO filed false information on that license as well and also failed to identify ATCO's need for a second water license. ATCO likely determined they had to file false information to get the AUC's initial approval of the substation which would form the basis of future development. The AUC acknowledged the complaint that was filed by a H2 resident with AUC Enforcement in 2019 of the unlicensed water ditches that have caused an estimated $750,000.00 damage to private property and environmental damage to the Paintearth Creek that have not been investigated since the initial complaint. Aware of all of this, the AUC approved the expansion of Tinchebray substation to be a hub to connect southeastern Alberta wind projects to the grid via Tinchebray to Red Deer while never being

compliant with either permit with the AUC or the AEP. We bring this information up for two reasons; first we will show that there may be a connection as to why the AUC changed their 27691 H2 amendment approval to bifurcate the H2 project and allow construction to begin without approval of the 3 remaining turbines that resulted in commitments made in the 27691 proceeding to not be enforced by the AUC or the County of Paintearth (reference #6 of History chart on page 13) and secondly this might also be an example of those "complexities" that the AUC are concerned about, we will explore this one a little later. We ask that you consider the Cost Claim review be viewed in the big picture as there is a correlation of quality of expert evidence presented or lack thereof, their pay and the effects of the decisions on the interveners having to live with these life altering approvals made by the AUC.

Again, just to give some context of our experience, during an Open House held by CP for the "Redesign" of H2 in 2021. It was over heard someone asking a CP representative why CP did not build the 74 turbines approved by the AUC. The response from CP, jokingly went something like this, well… this could be a case history of what not to do when developing a wind project. So…in that light this submission is perhaps an example of what happens when an AUC approval is based on false information and misconduct not substantiated by the AUC such as the evidence filed by many interveners including participants, consisting of SIPS and oral presentations in the original H2 hearing that the developer was dishonest, that the developer filed false information. And the developer was also a bully that has resulted in unnecessary cost to Albertans of over 1.5 million dollars as recorded in the charts of Cost pages 14 & 15.

Questions and thoughts for consideration.

We begin with; **What are the real or perceived concerns of the AUC?**

Hopefully, the concerns are for the residents and landowners in rural Alberta that have voiced their concerns that resulted in the Moratorium issued by the Government in 2023. The AUC has made some changes and these changes are the beginning of a much-needed overhaul to ensure the approval process is truly socially fair, economically beneficial for all and environmentally responsible with accountability enforced to avoid unnecessary damage to the environment or added unnecessary financial harm caused by the AUC process to the public personally or added unnecessary expense to the rate payer and taxpayer. If this is the basis for this review, it would appear that both charts indicate the perceived concerns are real and have had serious negative consequences.

We are wondering why it is that the AUC leaves the landowners responsible for shortfalls of expert charges incurred when providing experts that the AUC insist interveners hire if the interveners want to seriously test the reports provided by the developers? Is this even fair? We ask this in light of the Alberta Court of Appeal Decision 2012 ABCA 19 that seems to state that the AER and possibly the AUC as its sister agency are mandated to protect the public at whatever the cost, the cost does not have to be justified by the public/intervener. The decision also acknowledges that proven right or wrong should not be considered. Interveners have the right to be heard and should not have to bear the cost. The cost should be on the developer. This seems to support what JP Mouseau as the Executive Director of Facility's for the AUC pleaded with industry to get out there and do the necessary work to get it done, during the review of Rule 007 in 2020.

Does providing consistency and certainty of process align with other regulatory bodies such as LPRT and the AER?

What benefits will the changes have for the landowner?

Cost Claim Preapprovals for Experts

As per the History chart there seems to be a correlation between the benefit to the interveners of having the AUC preapprove both the experts and their rates that exceed the schedule of rates. The AUC insists on only expert evidence to be tested by only experts to the point of admonishing and penalizing those not deemed as experts by the AUC, questioning the experts.

This brings up the question as to the qualifications of the AUC employees reviewing expert reports that the AUC employee is not an expert on themselves?

By what logic is there to question the agent's qualifications or the landowner representing themselves if in fact the AUC themselves have no expertise on the specific subject?

The History of H2 chart reflects inconsistency and confusion.

Who and by what qualification, does the AUC determine who is right?

Supposedly it is the expert that out performs with facts over the other expert. From our experience as documented in History chart, the 3 experts used in the original approval by the interveners of H2 were consistently wrong in the AUC's opinion compared to CP's experts who were always righter. Although, 2 of the 3 experts received 100% of their cost even though they neither resulted in conditions to benefit the landowners or made any points with the AUC. This was confusing to us as you can see that in the next hearing 27691 our aviation expert was acknowledged by the AUC as "contributing to a high level of evidence" resulting in the removal of 3 turbines (not done before in an AUC wind project proceeding) and yet the interveners are burdened with almost $60,000 personal cost because their lawyer didn't ask for preapproval of the higher fee of the aviation expert. The interveners did nothing wrong. They hired a lawyer familiar with the AUC processes and hired a specialized aviation expert as per AUC requirements, that resulted in turbines removed and conditions on 3 turbines to be proven to be safe for CPE8 in a third hearing with the same lawyer. In that proceeding 28689 the lawyer asked for both pre-approvals for the AUC required specialized aviation expert and for the higher rate. Resulting in the AUC removing all 3 turbines but again the AUC did not approve the entire aviation expert's fee, because it was just too high and randomly picked a 13% reduction. This too is inconsistent and seems unfair. This leads to the next question:

Do these proposed amendments allow for greater certainty of cost recovery for the local intervener?

In our experience, kind of, sort of. Again, it is a little confusing. It seemed to be a benefit when requests for pre-approvals were made for both the expert and for the cost at a higher rate for proceeding 28689 as per the H2 History chart. We point out the preapproval of a higher rate was actually used by the AUC itself, for proceedings 27013 and 29109 to be preapproved resulting in the entirety of the AUC's cost recovered for legal representation for those proceedings. This brings into question the validity of the schedule of cost used by the AUC. To be noted industry is unrestricted for their cost of experts or legal fees which creates unfairness in the process that could be seen as procedural unfairness. We will come back to this a little later in this submission. But…

There are several points around this subject:

1. **What is the AUC required percentage of senior level of lawyer representation?** For example, for H2 original approval 22563 there was almost 90% junior representation at $240/hour. This might explain why the AUC paid 99% of the rate as it was at a significant savings to the developer who no doubt had the best and most senior representation for a project that 5 years later the AUC determined fell into the category of "increasingly complex; parties require specialized experts and make technical arguments" and the "increasingly legal nature." The AUC in their decisions on cost claims often distinguish the amount of time charged by different levels of lawyers and other staff.
2. **How does the AUC determine what level of participation of a senior lawyer or specific expert requirements for a project to ensure the "procedural fairness" that the AUC must maintain as the regulator responsible to protect the public from what they do not know?** For H2 it would appear it was the definition of David versus Goliath. H2 in the original 22563 approval was represented by a junior lawyer versus a panel of seasoned senior lawyers for the developer. We noticed in the Forty Mile Wind Project 27561 where the intervener chose to represent themselves and the AUC pleaded with them to seek legal representation and experts for the complex and legal issues the intervener was presenting and even made a new schedule to accommodate his new representation. The interveners for H2 did not receive this specific consideration by the AUC at the time of the original hearing which could have saved time, and hundreds of thousands of dollars and the unnecessary discrediting of the owner/operator of the aerodrome to their community and by their County who based their responses to the H2 Community's concerns of public safety of the aerodrome on the AUC original approval.
3. **Could the AUC explain the rationale behind the current scale?** The rates were just increased in the past year from $350/hour to $475/hour for a senior lawyer which appears to be below market value for a senior lawyer outside of AUC proceedings that is around $600/hour. An example of below market value for a lawyer would be during our request for a Review and Variance in proceeding 23638 in 2018 we were quoted an estimate of about $8,000.00 at a rate of $240/hour by the junior lawyer then a senior lawyer took over and half of the case was charged to us at $350.00/hour the same rate as the AUC in 2018 and then the second half of the case within that same year, was charged to at $450.00/hour.
   A couple of points; It appears the AUC's rate for lawyers is below market value in excess of 20% and then those lawyers face the possibility of reduction. This also seems to indicate that the landowners are receiving less experienced legal representation to their detriment. As per the History chart when we used the experts that also seem to be below fair market value that fit in the AUC schedule of rates in the original proceeding, we never received any conditions outside of the standard conditions and the AUC consistently favored the developer over these experts. But when we hired aviation experts that resulted in the removal of turbines that were a public safety issue these experts were as the AUC stated 2-3 times higher than the AUC rate.
   As for the lawyers it seems odd that these lawyers choose to work for less than the going rate and additionally are often penalized and that this is what the AUC deems as the best representation for the landowner facing the best lawyers and best experts representing the developer who has no limit by the AUC on their cost.

Recommendation: All intervener cost claims should be paid in their entirety by the developer as per the Alberta Court of Appeal Decision. This would encourage the developer to "do the work" to remove concerns (move towers or

compensate non-participants) to avoid large hearing costs incurred only by the developer. It's a big province with lots of space. Many developers have received approvals by doing the work, without requiring a hearing which is a huge savings for everyone.

Consider for example, CP's Halkirk 1 and all phases of their Whitla Wind Projects had no hearings. So clearly if CP removed concerns for those projects CP could have done it for H2. Interestingly, CP seemed to know it wasn't going to go well for H2. So, the County in 2009 removed all of the ESAs in the Valleys on 2 of the 3 sides of the island of land of the future H2 project during the application of H1 which CP did not advise the AUC of CP's plan for the H2 project. Then ATCO ignored AESO's recommendation to build CP's Tinchebray substation on Hwy 36 High Line Corridor and built it on a licensed water ditch without identifying it to the AUC or AEP that caused property and environmental damage as we said earlier. Then the County also changed their Municipal Development Plan by removing protection of the 2 Valleys within the H2 project that were identified as landscape features to be protected. And all falsely claimed the aerodrome in the middle of the H2 project would be safe to the public and the pilots with 17 turbines the AUC originally approved based on false information, within the 4000m of the aerodrome against the recommendations of the Federal Government that have all been removed since by the AUC due to AUC's safety concerns after hearing aviation expert evidence not allowed in the original hearing.

As we said earlier this was not the only time, we witnessed the AUC did not substantiate false information which becomes problematic as it leads to more dishonesty for the future expansions of existing approvals based on false information. Coincidently or maybe not and, more likely to be expected as it involves the same player ATCO already identified as dishonest by the AUC resulting in over $30 million dollars of penalties against ATCO in decisions 27013 and 29109 by the AUC.

The AEP as the agency in charge of the water licenses also failed to hold ATCO accountable for the false information filed by ATCO for Capital Power's Halkirk 1 Tinchebray Substation. The damage continues to this date without any penalty by the AUC based on the illegal permit the AUC issued to ATCO based on false information necessary for the AUC approval for the substation from the AEP that failed to enforce the AEP license. And now both agencies have approved expansion of a noncompliant substation. Interestingly, the Auditor General of Alberta determined the AEPA has been failing to enforce their licenses as identified in a report filed in July 2024 Auditor General's Report.

We bring this into the conversation as maybe, the increasing complexities identified in this draft amendment by the AUC for the need of this review of Rule 009 might have more to do with the tangled webs industry have trapped the AUC in along with other government offices and not so much about the representatives that the interveners are choosing outside of the lawyers familiar with the AUC processes.

Discontinuing the practice of allowing agents to recover costs for acting as representative in AUC proceedings to increase administrative efficiency and ensure procedural fairness.

We will break this down as underlined: **Allowing agents to recover costs?** This seems to pose the question of Agent versus Lawyer? We ask the following questions:

Where does it say in the AUC Commission Act that interveners Must use a lawyer?

Does this infringe on my right to represent myself?

Could the AUC rule that I was not eligible as a local intervener because I was acting as my own Agent?

Is it fair to assume that the proponent, AUC Chair, Board Members and support staff will also be required to be lawyers to participate?

This then leads to the following points to be considered as per the AUC bulletin 2024-20 "are increasingly complex; parties frequently require specialized experts and make technical legal arguments to…providing legal advice and presenting legal arguments, which can only be done by a lawyer. agents are not subject to oversight through the Law Society and their clients do not enjoy the benefit of lawyer-client privilege, the duty of…Given the evolving and increasingly legal nature of the AUC's proceedings, confidentiality, a professional standard of care or professional liability insurance." May be the following could also be considered:

Is there an option of using both an Agent and Counsel (verses one or the other)?

Maybe there could be limited participation of counsel along with the Agent as a representative?

In our experience we can give examples of each using the H2 History chart. We used an AUC recommended lawyer in 22563, which the AUC no longer does. In that experience the junior lawyer who did almost 90% of the work received 99% of their cost claim for not ensuring standing for the aerodrome owner/operator that was automatically given standing 5 years later in proceeding 28689 because " **Their ownership of the Fetaz aerodrome is a legal right that may be directly and adversely affected by the Commission's decision**" for not ensuring standing for us that resulted in no aviation expert evidence for the aerodrome in proceeding 22563 that the AUC would 5 years later rule it was not safe to place 17 turbines AUC approved without aviation expert evidence within 4000m of the aerodrome and no turbines within 5 rotor diameters of the circuit resulting in the removal of another 2 turbines.

In proceeding 27691 a landowner also chose to be represented by her daughter, which may be similar to self-representation in this case. This allowed the landowner to have their specific concerns addressed by the Commission that acknowledged the viewscape as part of 2 reasons why the AUC removed turbines 24 & 25 and acknowledged her concerns of potential water drainage issues created by the access road for the turbine. But then relegated the representative to only a Honoria status for payment discounting her submitted cost for her time by over 82%.

Our community also used an agent (who was a Farmer) for 27691, 28689 and 25469 for CETO. We appreciated having the choice. To take away that choice would also likely take away our choice to represent ourselves. Together the loss of choice seems undemocratic. It feels like another shovel of dirt dumped on the grave of the landowner as we continue to lose our property rights by expropriation of our land without compensation and relevance in our society with no compensation for loss of our right to peace and enjoyment of our property and dismissive judgements as to what our level of expertise in relation to the considerations of an industrial project in a rural residential community are.

Requiring only lawyers and the discontinued use of agents for landowners, how will these changes improve **administrative efficiency** and to **ensure procedural fairness**, we ask the following questions:

Does this increase the regulatory burden on the landowner?

Is it not the role of the Chair to address a preliminary matter, out of scope and procedural matters as part of the process?

Does this shift or increase the fairness of the balance of power to one party over the other?

Would being forced to utilize legal counsel increase costs associated with participation, for both the applicant and the local intervener?

In our experience we found an agent is more accessible & approachable, also more knowledgeable about agriculture practices, farming risks and challenges, quality of life impacts and rural culture. The lawyers on the other hand seem to have a time clock attached to every word. Take for example in the H2 History chart under the Time Extension, the lawyer for the group charged over $13,000 for his time. It was the community who prepared the letter requesting the AUC to deny the Time Extension; acquired the signatures and submitted the letter to the AUC with 44 signatures within hours of receiving CP's notice for the Time Extension before even speaking to the lawyer. It was our community's idea and it was the participants that also signed and reported the false information and misconduct by the land agents during their reported consultation for the Time Extension in their SIPS requesting the AUC to deny the Time Extension request of CP. Yes, the lawyer presented the legal argument to reflect the relevance of the community's reports but, $13,000.00 seemed high and then he never recovered the cost as the AUC approved the Time Extension BUT acknowledged in the Decision 25047 paragraph 21 "Recognizing that a number of stakeholders submitted statements of intent to participate in the proceeding with outstanding concerns, the Commission encourages Capital Power to enhance its consultation efforts should it submit any additional applications in respect of the project."

Because we had been burdened with unrecovered expenses for aviation experts required by the AUC this has created distrust of the AUC process using the lawyers. Also, the junior lawyer did not get us standing and never made sure the aerodrome was represented by an aviation expert in the original hearing. The AUC denied the additional 60 days requested by the interveners to prepare and then denied the aviation evidence submitted as too late, the very evidence that would be used by the AUC as the basis to remove all of the turbines near the aerodrome 5 years later. Resulting in hundreds of thousands of dollars of unnecessary expense and uncalculated time of the interveners to prove the original AUC approval was based on false information that the junior lawyer never made a point of substantiating.

Recommendation: All rates for lawyers, experts and agents representing landowners, the developer has failed to negotiate with, should be approved by the AUC to ensure fairness and consistency.

<u>Increasing rates for intervener honoraria</u>

So…at the outset this would seem long overdue! As we are sure you are aware minimum wage is $15.00/hour for 8 hours is $120.00/day. A respectable consideration for the non-participant's time that are forced to consider the life altering changes the developer has had years to plan, unlimited staff, the best lawyers and experts and unlimited funds to plan a project that is forced on the intervener and their family for generations to come through sterilization of the land and without compensation for the AUC acknowledged allowable noise disturbance, hours of shadow

flicker deemed tolerable, turbine annoyance deemed tolerable, loss of at least 10% in property values for non-participants living next to turbines, no compensation for moving away or relocating assets and tensions created by the project that will go on for generations. All of these stresses and losses never existed before the industrial development came into their rural residential community. All without compensation from the developer to the non-participants. So most definitely there needs to be more monetary consideration for the intervener's time and effort to participate in this AUC process that does not prepare them for knowing what they do not know. But first maybe most of the stress and unnecessary cost could be avoided if:

Recommendation: AUC to require a sign off by the landowners; including both participants & non-participants of their concerns and the resolution thereof. This true accountability has been offered by some developers. It is also done for transmission. Implementing this requirement might give back some of the lost integrity caused by the developers and the AUC failing to hold the developer accountable. The developer would show the name, location, what the concern was and exactly how the concern was removed and have it signed by the landowner compared to the present situation where too often all the developer has done is acknowledged they "heard and recorded" the concern and then proceed to misrepresent to the AUC that the concern has been removed. Such was the case with both 22563 and 27691 in the History chart. The majority of the SIPS stated CP had falsely reported that their concerns were removed and we are aware of several complaints made to the AUC regarding the false statements filed by CP.

If the above requirement has not motivated the developer to negotiate in good faith with the interveners, then the next requirement might be that a higher honorarium for participation needs to be added as motivation to the developer to "work harder." It might be for those not collecting a wage an honorarium that is respectful of the disruption and inconvenience should be at the least $3000/intervener. To be fair each person's daily wage should be met without question for participating in a hearing in addition to the honorarium as they each still have to work their jobs and then make time after work to consider the life altering changes the developer is forcing on them without compensation.

Recommendation: All complaints filed or reported to the AUC must be recorded on the Complaint Resolution site indicating what the resolution was & confirmation of the resolution by the landowner including required resolutions and enforcement thereof by other agencies. These complaints & resolutions should remain as part of a continuous record and never removed as part of the history of AUC Enforcement. This doesn't have to be about shaming but rather accountability/acknowledgement of mistakes and solutions to show developers possible solutions to avoid unnecessary complaints by landowners.

Summary

The AUC was created to protect the public because industry will not. The truth is industry has years to prepare, total knowledge of the legal and regulatory requirements, experienced staff, unrestricted accesses to the best lawyers, the best experts and unlimited money. Compared to the landowner who literally may only have a few hours out of each day for a few weeks, often during their night resulting in lost sleep, to think about and then prepare their concerns based on information they don't know what they don't know. We ask that all of the questions in bold throughout the

submission be considered as these questions are what we based our recommendations on. The following are a summery of recommendations based on our experience of the AUC processes beginning with this central question;

What are the qualifications of the AUC staff who review and make decisions on expert evidence?

AUC to require a sign off by the landowners; including both participants & non-participants of their concerns and the resolution thereof.

All allegations of false information and misconduct must be substantiated by the AUC. This will form a strong foundation for future expansion of existing projects that are based on existing economically and environmentally responsible industrial projects.

All interveners cost claims should be paid in their entirety by the developer as per the Court of Appeal or;

All rates for lawyers, agents and experts should be approved in their entirety. Both agents and lawyers representing landowners would benefit from a more level playing field of access to experts and legal counsel at the same level as the developer without fear of reduction by the AUC leaving a financial burden on the agent, lawyer and on the interveners. This would also aid the AUC by providing the highest level of evidence to be tested resulting in decisions that are based on the best evidence available. If this recommendation is not accepted;

The AUC require preapproval of experts and their entire pay. To ensure fairness in equal representation that provides the standard of care required for the landowners. And to encourage the developers to work harder to avoid hearings.

AUC to provide details of the level of legal experience required for each project and to ensure “a professional standard of care or professional liability insurance” as per the Bulletin 2024-20.

All complaints filed or reported to the AUC must be recorded on the Complaint Resolution site indicating what the resolution was & confirmation of the resolution by the landowner including required resolutions and enforcement thereof by other agencies. These complaints & resolutions should remain as part of a continuous record and never removed as part of the history of AUC Enforcement to provide solutions to avoid future problems.

We hope this has been helpful. Based on our experience, there needs to be more incentive on the developer to apply for projects based on honesty. The processes do not have to be so complicated risking unfairness and unnecessary cost. Keep it simple. AUC project approval based on truth & fairness upheld by AUC enforcement of commitments and requirements.

We greatly appreciate the AUC’s consideration and evaluation of its rules to make sure to protect the public and their interests. Thank you for your time and consideration.

Gerard and Donna Fetaz

AUC Hearings	2017 Proceeding 22563 AUC Recommended Lawyer	Reality of Approval	2022 Proceeding 27691 Lawyer Familiar With AUC	Agent	Landowner	Reality of Approval	2023 Proceeding 28689 Same Lawyer as 27691	Agent	Reality of Approvals
Cost to Intervener	$6,000.00 12 standing/no standing for 4 members, 2 recreational businesses	No additional cost to interveners for experts	No cost for lawyer	No cost 12 standing	No cost standing	$59,214.66 not recovered by interveners for CPE8 aviation expert required by AUC, cost claim reduced by 46%	No cost for lawyer	No cost No standing/ Ultralight participant	No cost to intervenors because of preapproval of expert fees and the lawyer or expert covering shortfall
Experts	1 environmental, 1 acoustics, 1 hydrogeological Junior Lawyer did almost 90% of work Lawyer awarded 99% of cost, 100% environmental, 100% acoustics, Docked 25% Hydrogeological	Request for additional 60 days to prepare by interveners AUC gave additional 15 days [1] Complaints of misconduct & Falsely recorded participation, False information on Federal documents and Agent's log not substantiated by AUC [2] 2 participants withdraw support for H2 Request for alternate sites refused by CP	1 legal aviation Pre-request for funding, lawyer did not request pre-approval for higher fee Legal aviation expert had a pre-existing relationship with the interveners when he presented reports on aviation law to both the AUC Rule 007 & the County Bylaw paid for by the interveners $17,302.07	0 experts	0 experts	Legal aviation expert was lead in Ontario case presented to AUC in late evidence for R & V request proceedings 22563 & 23638 Interveners offered 10 Alternate sites approved in 22563 were refused by CP 50km/hour speed for CP Complaints of misconduct & misinformation by CP not substantiated by AUC	1 AUC required aviation turbulence expert Pre request for both advance funding & higher fee AUC refused 13% of AUC required expert's fee and reduced lawyer by 20% $4,702.90 absorbed by expert or lawyer?		Dozens of Traffic Violations reported to AUC, bylaw officer and RCMP, broken windshields and one collision due to poor visibility caused by dust resulting in vehicle written off AEPA approved water diversions without landowner consultation [6] Turbines were constructed without delay from 27691 application even with added hearing because of 24-hour/day construction permission granted by the County without consulting H2 residents resulting in dozens of complaints by residents including children's sleep disturbances – County refused to approve use of alternate route with no children on it.
Conditions And Towers Moved or Removed	26 conditions **1 condition for aerodrome** with **no standing for owner/operator who questioned public safety**, no aviation experts CP falsely stated operator had no concerns, 1 condition for permitted future residence **Not 1 turbine moved 1 inch since proposal of project** **0 turbines removed**	**74 towers approved** with [3] An illegal setback bylaw Court of Appeal unanimously ruled CP & County procedurally unfair for 5 SDABs & ordered to pay appellants legal costs resulting in 6th SDAB. SDAB ruled AUC overrules any possible considerations CP gave no reason when the Judge asked why CP was not building	**3 towers conditional** to CP to prove continued safe operation of CPE8 **2 Towers Removed for CPE8 public safety**	1 Water well Pre & post test Construction 7am – 10pm Clubroot mitigation as per County's protocol Viewscapes recognized **1 tower removed** as per bylaw	[4] Viewscape recognized in decision Possible water drainage issues due to access road	**3 turbines removed** with aviation expert that was with late evidence & in R & V in 2018 but denied by AUC The safety concerns for CPE8 ruled by the AUC in 2023 existed for all 17 turbines AUC approved in 2018 County refused to enforce clubroot protocol [5] County refused to enforce setback bylaw	**AUC denied approval of all 3 turbines**		1 residence & cattle operation totally relocated at landowner's expense, 3 other abandoned residences due to the industrial project, new acreage identified in 22563 vacated by owners unable to sell Viewscapes by CP underplayed the size of the turbines. The reality is much worse & will likely result in more residents vacating or abandoning their homes Tension not present between H2 community & County began with illegal bylaw. Tension continues to this date: no clubroot protocol enforced, traffic violations allowed and discrediting by the County of the concerns of H2 non-participant & participant residents who withdrew their support of H2
Review & Variance Requests	Proceeding 23638 AUC denied request because evidence was too late Unrecovered cost $29,975.14	All evidence and aviation experts that would have been used in 2017-18 were used in 2022 & 2023					Proceeding 29199 AUC denied application		[7] A participant with no standing was denied an application for a R & V based on the loss of income from their tower that was removed because of the AUC's concern for the continued safe operation of CPE8. The AUC stated CP failed to provide a shutoff protocol that was safe for CPE8
Time Extension 25047	AUC Approved: Noted 44 residents including participants requested AUC deny time extension $13,536.28 unrecovered cost to the AUC lawyer	CP removed conditional tower when CPE8 owner/operator was prepared with legal aviation expert					**Nov. 8, 2024 Turbine 33 blades & nacelle crashed to the ground**		**AUC Order requiring immediate suspension of construction Order 27691-D04-2024** **Continued Cost to be determined,** **Continued stress to the community whose worse fears are realized as to the quality and integrity of the AUC approvals based on unsubstantiated false information & misconduct**

History of H2

History of H2 Chart References 1-8/ Page 12

1.Proceeding 22563 over a dozen complaints from both Participants and Non-Participants of false information of participation X0016 page 16 & multiple SIPS reporting misconduct resulting in the loss of 2 participants X0209 yet the AUC states the "factual context" of the consultation in their decision that CP had 70% landowner participation that was actually less then 68% by the time of the decision further lowering the resident participation below 48%. The AUC went on to say in paragraph 50 "Capital Power's consultation program met or exceeded the regulatory requirements."

> Four points; The AUC determined it was important for the AUC to respond to the intervener's allegations of false consultation but without substantiating CP's filings. Secondly as a result of the allegations not substantiated by the AUC in 2017, on November 4, 2024 the land agent identified in complaints filed with the AUC for misconduct and filing false information, is still driving in our community flaunting his immunity of incrimination. And thirdly, it would appear the regulatory requirements for consultation need to be reviewed when this project has resulted in more than 1.5 million dollars of government proceedings including 3 AUC hearings, 6 SDABs, 1 Court of Appeal and dozens of complaints by the interveners of false information and misconduct by CP to other government agencies that do not take into account the AUC administration costs (Cost of AUC approval of H2 page 15). And fourthly, the yet to be determined cause of the failure of turbine 33 and the cost of the multiple levels of government agencies including the investigations, cleanup and the uncalculated added mental stress on the H2 community as we wait to find out if what the AUC & the County have approved was constructed as per all public safety requirements.

2. 2 Resident Participants withdrew their support of H2 in February 2018 just weeks after the close of the proceeding but weeks before the AUC decision. Reducing resident support below 48%. By the time of CP's amendment application CP released from their agreement over half a dozen residents that had reported misconduct and other issues to the AUC further reducing the current resident participation in the low 30% rate; it is so low CP will not disclose the true resident participation.

3. Proceeding 22563 the County of Paintearth passed an illegal setback bylaw in 2016 after receiving a threatening letter from Capital Power. A complaint was filed with the Municipal Government Board. The County "returned" the setback from non participants of 1000m after the AUC approval of H2. The County council at that time consisted of 2 of the 7 councillors had signed agreements with CP. One Councillor the largest benefactor from Halkirk 1 with over 30 turbines who declares he can not see any turbines from his home and the second councillor the largest benefactor with H2 with 5 turbines and the laydown yard that CP refused to move even though the laydown yard was located on the main artery for the island of land resulting in dozens of reports of traffic violations and uncontrolled dust during construction leading to an accident with a contractor totaling a landowner's vehicle because the dust created by the traffic caused reduced visibility.

4. Both the agent and the landowner represented by her daughter were concerned with their viewscapes and in the decision 27691 the AUC stated in paragraph 212, the Commission has found that turbines T24 and T25 must be removed as potential turbine locations; this will further reduce the visual impacts of the amended project as compared to the approved project.

5. Proceeding 27691 a Participant resident refused to renew their agreement with CP due to concerns for possible health affects from the turbines. The County refused the request by the landowner to enforce the setback bylaw. The agent for the PPA group made the request during 27691, CP refused and in the decision the AUC removed the turbine.

6. In Decision 27691 under conditions part (a) stated "The final project update must be filed at least 90 days prior to the start of construction." The AUC granted CP's request for a bifurcation of the project so as to begin construction of the approved towers to meet the completion of construction date. The AUC's bifurcation negated CP's commitment made during the hearing in Volume 2 pages 344-348 expert talked about 7am to 10pm construction time and then made an undertaking not to construct prior to 7 am except for rare circumstances. The County then approved CP's request for permission to do construction and concrete hauls 24-hours/day beginning in March 2024 without consulting with the residents of H2. Resulting in the majority of the concrete pours at 10pm and 2am in addition to daytime pours and assembly of blades at night. There were families who reported disturbances to their children's sleep but the County refused to permit CP the use of an alternate route of TW402 that had no children living along that road. Interestingly, CP is still falsely reporting to the public in a recent article for Pre-Bid Projects on July 29, 2024 "Work is typically carried out from 7 a.m. to 5:30 p.m., five or six days per weeks, with occasional Sunday hours.

7. Decision 29199 the decision ended with Capital Power does not get a "second opportunity to meet its onus." CP failed to get approval of the 3 turbines and then filed along with this participant that amounted to additional bullying by CP to discredit the aerodrome owner/operator to mislead the community that the public safety of the aerodrome operations is negotiable. How could an aerodrome operator agree to less safety than what the Federal Government recommends? Who would be liable?

8. Turbine 33 Incident on November 8, 2024 – During the 22563 hearing in Transcript November 2017 the interveners reported to the Commission that the manual stated 400m safe space for employees working near operating turbines (Transcript 22563 Nov. 23, 2017 sections 715.5-13 & 738.12-24). CP stated in its response to the AUC Suspension Order "As a precautionary measure Capital Power has requested that the community, along with their livestock, keep a minimum distance of 200m away from all other turbines at site." Now that there is an "incident" that has resulted in the turbines no longer operating why a further distance than the County of Paintearth Land Use Bylaw?

49. Solar and Wind Energy Conversion Systems (SECS/WECS) (1) WECS and SECS Regulations All developments must meet the following minimum standards: **(ii) From any road – 330 ft. (100 meters) or the greater of blade length + 20 metres (iii) a) From any leased property boundary line – 164 ft (50 m) or the greater of blade length + 20 metres (iv) b) From any non-leased property boundary line – 330 ft (100 m) or the greater of blade length + 20 metres**

Cost of Halkirk 2 Wind Project

AUC Proceedings 22563, 23638 & 25047

	H2 interveners claim	Interveners unrecovered	Other unrecovered	Capital Power Paid
Ackroyd	$150,463,30	$6,000.00	$5,384.20	$145,079.10 **Reduced 3.6%**
Ackroyd Participants withdraw	$2,712.00		$2,712.00	$$$
Review & Variance Request	$29,975.14	$29,975.14		$$$
Time Extension	$13,536.28		$13,536.28	$$$
Total AUC Approval 22563	**$196,686.72**	**$35,975.14**	**$21,632.48**	**$145,079.10**
6 SDABs & 1 Court of Appeal		<$8,350.00> $295,097.46		<$8,350.00>
County of Paintearth C of Appeal			$635,072.60	$$$
74 Turbines AUC Approved Not Built	**$196,686.72**	**$331,072.60**	**$656.705.08**	**$153,429.10**
*Rule 007		$12,656.05		
*Bylaw		$4646.02		
Total	**$196,686.72**	**$348,374.67**	**$656,705.08**	**$153,429.10**

Alberta Court of Appeal ordered CP & County to pay $16,700.00.

*Rule 007 - Interveners Paid for Legal Aviation Expert's report and participation in conference call with Engage Panel.

*Bylaw - Interveners Paid for Legal Aviation Expert's report for County of Paintearth's review of bylaw regarding Aerodrome Districts.

Total cost not discounted for 74 Turbines AUC and County of Paintearth Approved & Permitted based on false information and misconduct not substantiated by the AUC, and never built

$1,150,158.80

Costs of Halkirk 2 Wind Project Amendment

AUC Proceedings 27691, 28689 & 29199

	H2 Interveners Claim	Interveners unrecovered	Other unrecovered	Capital Power Paid
Proceeding 27691				
Carscallen	$153,220.49	$29,607.35	$1,490.99	$117,522.15
My Landman	122,817.17	29,607.35	11,665.78	$76,944.04
*C. Felzien	32,012.80	26,497.05		5,515.75
TOTAL	**$308,050.46**	**$85,711.75**	**$13,156.77**	**$199,981.94** **Reduced 35%**
Proceeding 28689				
Carscallen	$68,300.44		*$13,923.60	$55,776.84
My Landman	19,490.63		5,159.71	14,330.92
TOTAL	**$86,391.07**		**$19,083.31**	**$68,707.76** **Reduced 21%**
Total Amendment	**$395,841.53**	**$85,711.75**	**$32,240.08**	**$268,689.70** **Reduced 32%**
Total H2 AUC Proceedings	**$592,528.25**	**$121,686.89**	**$53,872.56**	**$413,768,80** **Reduced 30%**
Failure of Turbine 33	**Nov. 8, 2024 AUC Order 27691-D04-2024 Safety & operational integrity of remaining 27 turbines and cost of investigations yet to be determined**			

*Representative discounted to Honorarium

*AUC discounted required aviation expert $4,702.90 can $6,100.00 us

Total Cost of Representatives of Non-Participants **$910,927.78**

Total Cost to the Tax Payers in the County of Paintearth **$635,675.80**

Total Unrecovered Cost of Interveners **$454,061.56**

Combined Total of Known Cost of H2 = <u>$1,546,000.38</u> based on false information & misconduct unsubstantiated by the AUC in approvals by both the AUC and the County and will continue as a result of the yet to be determined cause of the failure of Turbine 33 & the investigations of Capital Power's Halkirk 2 Wind Project that began on November 8, 2024.

Total Cost Capital Power Paid **$422,118.80**

Original Approval Cost with no aviation experts reduced 3%

Since original AUC approval 22563

Amendment Costs with aviation experts reduced by 30%

Interveners have paid out more money than Capital Power