

We are happy to have Ms. Rondeau assist us and be a non-legal representative for the ELA Group, as she is able to spend more time meeting with the group members (including in person, at their homes), deciphering the evidence for their easy understanding, and answering their questions about the process. She will be able to collect relevant evidence from the group members that we will then review for legal requirements and strategy. Ackroyd LLP will be extremely cognizant not to duplicate work with Ms. Rondeau.

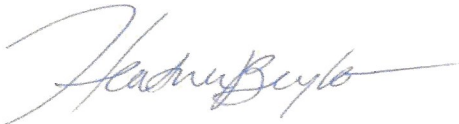
Ms. Rondeau will not be submitting any evidence in Proceeding 29226 (as she did in a previous proceeding, as noted by the Commission).

To ease the Commission's concern regarding the fact that Ms. Rondeau, who is not a legal representative, is not required by law or policy to maintain privilege, nor does she have the duty of confidentiality or a professional standard of care (as us lawyers do), we are prepared to require that Ms. Rondeau sign an agreement promising to keep same, much as a paralegal would be required to do.

I trust the above is satisfactory. However, if you require further information or comment on the within subject matter, please do not hesitate to contact me directly.

Yours truly,

ACKROYD LLP

A handwritten signature in cursive script, appearing to read "Heather Beyko", written in dark ink.

HEATHER A. BEYKO

November 6, 2024

To: Parties currently registered in Proceeding 29226

**Fox Meadows Wind Inc.
Fox Meadows Wind Project
Proceeding 29226
Applications 29226-A001 to 29226-A003**

Request for response to Jasona Rondeau and Ackroyd LLP's letters of October 30, 2024

1. On October 23, 2024, the Alberta Utilities Commission issued a standing ruling in this proceeding.¹ In that ruling, the Commission requested that the Edgerton Land Advocates group (ELA) clarify Jasona Rondeau's specific role in this proceeding, outline the steps J. Rondeau intends to undertake and indicate whether J. Rondeau plans to claim for cost recovery.
2. On October 30, 2024, both J. Rondeau and Ackroyd LLP provided further information on the role and responsibilities J. Rondeau intends to undertake in this proceeding and cost claim recovery intentions.²
3. The Commission considers it appropriate in this instance to permit Fox Meadows Wind Inc. (FMWI) an opportunity to make submissions in response to J. Rondeau and Ackroyd LLP's correspondence of October 30, 2024.
4. Should FMWI provide a response, it must be filed by **4 p.m. on November 12, 2024**. Any reply from the ELA to FMWI's response must be filed by **4 p.m. on November 14, 2024**.
5. Should you have any questions, please contact the undersigned by email at peju.anozie@auc.ab.ca or Joan Yu at 403-592-4380 or by email at joan.yu@auc.ab.ca.

Yours truly,

Peju Anozie
Commission Counsel

¹ Exhibit 29226-X0068, AUC letter – Ruling on standing.

² Exhibit 29226-X0072, 2024-10-30 LT AUC re Legal and Non-Legal Representation; Exhibit 29226-X0073, Response to Request for Further Information #29226.



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November 12, 2024

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VIA AUC E-FILING

Alberta Utilities Commission
Eau Claire Tower
1400, 600 Third Avenue S.W.
Calgary, AB T2P 0G5

Attention: Dale Johnston, Commission Counsel
Olapeju Anozie, Commission Counsel

**RE: Fox Meadows Wind Inc. ("FMWI")
Alberta Utilities Commission ("AUC" or "Commission") Proceeding 29226 ("Proceeding")
Application Nos. 29226-A001 to 29226-A003
Submissions regarding Participation of Non-Legal Representative**

Dear D. Johnston and O. Anozie:

We are legal counsel for FMWI, the applicant, in the above noted matter. On October 23, 2024, the Commission requested that the Edgerton Land Advocates Group ("**ELA Group**") provide information regarding the specific role intended for Jasona Rondeau ("**J. Rondeau**") as a non-legal representative, given that the ELA Group has also retained Ackroyd LLP to provide legal representation in the Proceeding.¹ The Commission also requested that the ELA Group provide information regarding the steps J. Rondeau intends to undertake in the Proceeding ("**Proposed Services**") and whether she intends to submit a claim for cost recovery.² On November 6, 2024, the Commission invited FMWI to submit a response to the submissions of J. Rondeau³ and Ackroyd LLP⁴ regarding J. Rondeau's participation in the Proceeding.⁵

FMWI appreciates the opportunity to provide submissions on this matter and understands that the Commission is currently seeking broader public feedback on the continued involvement of paid agents in AUC proceedings, including comments on what roles paid agents should and should not be permitted to perform.⁶ In respect of the Proceeding, FMWI believes that J. Rondeau's participation as a paid agent of the ELA Group is not necessary in light of Ackroyd LLP's legal representation. While FMWI understands that J. Rondeau can participate in the Proceeding as a member of the ELA Group, it would not be reasonable for J. Rondeau to recover fees or costs for such participation under Section 5(2) of

¹ Exhibit 29226-X0068, Ruling on Standing (October 23, 2024), paragraph 32 ("**Ruling on Standing**").

² *Ibid*, paragraph 32.

³ Exhibits 29226-X0073 and 29226-X0074, AUC Further Info Request (October 30, 2024) – Response Submissions ("**J. Rondeau's Submissions**").

⁴ Exhibit 29226-X0072, AUC re Legal and Non-Legal Representation – Response Submissions ("**Ackroyd's Submissions**").

⁵ Exhibit 29226-X0080, Request for response to Jasona Rondeau and Ackroyd LLP's letters of October 30, 2024.

⁶ AUC Bulletin 2024-20: Written consultation established on draft amendments to Rule 009 (October 3, 2024).
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Rule 009: Rules on Local Intervener Costs ("Rule 009"). As outlined in greater detail below, the Proposed Services are likely to:

- overlap with the services that legal counsel has committed to or is otherwise obligated to provide; and
- increase the costs of the Proceeding, including the potential for "double recovery" of administrative or support costs under *Rule 009*.

On this basis, FMWI requests that the Commission issue a direction confirming that J. Rondeau, Ackroyd LLP and the ELA Group are not eligible to file a costs claim relating to the costs of J. Rondeau's participation in the Proceeding.

Reasons

1. The Proposed Services overlap with the services that legal counsel has committed to or is otherwise obligated to provide

In her submissions, J. Rondeau provided a list of Steps Taken to Date and Proposed Future Steps that make up the Proposed Services. Such steps noted by J. Rondeau include:

- Setting-up e-filing accounts;⁷
- Summarizing project documentation;⁸
- Coordinating communications with intervener members and legal counsel;⁹
- Providing proceeding updates;¹⁰
- Filing Statements of Intent to Participate;¹¹
- Contacting landowners and advising them to contact counsel;¹²
- Collecting direct evidence from interveners and submitting to legal counsel for review;¹³
- Consolidating and transmitting questions and concerns from group for legal counsel on a continual basis;¹⁴
- Communicating the needs of legal counsel to group members and providing efficient and organized responses;¹⁵
- Preparing members to appear at the hearing;¹⁶ and
- Performing any additional tasks delegated by legal counsel.¹⁷

⁷ J. Rondeau's Submissions, PDF page 4 at C(1)(h); page 5 at C(2)(c).

⁸ *Ibid*, PDF page 4 at C(1)(a), C(1)(f).

⁹ *Ibid*, PDF page 4 at C(1)(g); page 5 at C(2)(a), C(2)(d), C(2)(f).

¹⁰ *Ibid*, PDF page 5 at C(1)(n).

¹¹ *Ibid*, PDF page 4 at C(1)(j).

¹² *Ibid*, PDF page 5 at C(2)(a).

¹³ *Ibid*, PDF page 5 at C(2)(d).

¹⁴ *Ibid*, PDF page 5 at C(2)(f).

¹⁵ *Ibid*, PDF page 5 at C(2)(f).

¹⁶ *Ibid*, PDF page 5 at C(2)(h).

¹⁷ *Ibid*, PDF page 5 at C(2)(j).

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These Proposed Services include the same tasks performed by J. Rondeau in the Dolcy Solar and Energy Project proceeding ("**Dolcy Proceeding**") for which costs claimed by J. Rondeau were denied.¹⁸ The Commission denied such costs, in part, because it was not clear why a non-legal representative would be required to assist with such tasks when legal representation was retained.¹⁹ Similarly, the submissions provided by J. Rondeau and Ackroyd LLP in this Proceeding do not clarify why such tasks could not be performed exclusively by legal counsel with the assistance of the administrative, clerical or support staff (collectively, the "**Legal Support Staff**") who typically support in the normal operation of a law firm. As discussed in greater detail below, the scale of costs established under *Rule 009* provides that legal fees are deemed to be inclusive of all overhead charges, including those related to work performed by Legal Support Staff.²⁰

Based on the submissions filed, it appears that Ackroyd LLP is providing or proposes to provide many of the same tasks as those included in the Proposed Services. For example, both J. Rondeau and Ackroyd LLP are supporting with the formation of the ELA Group,²¹ working with ELA Group members to provide Information Responses;²² receiving direct evidence from ELA Group members;²³ and preparing ELA Group members for the hearing.²⁴ Furthermore, Ackroyd LLP describes these tasks as "appropriate for/call for/only applicable to the work of legal counsel."²⁵ It is therefore unclear why a non-legal representative is necessary to support such tasks in addition to legal counsel.

Many of the Proposed Services described by J. Rondeau also overlap with services that legal counsel is professionally obligated to provide pursuant to the Law Society of Alberta's Code of Conduct.²⁶ For example, J. Rondeau predominately characterizes her role as facilitating communication²⁷ or "reducing barriers"²⁸ between the ELA Group and legal counsel. As justification for the role of a non-legal representative, J. Rondeau states:

"[...] retaining a non-legal representative to meet with the group members, obtaining information relating to their concerns, and documenting them and passing them on to the legal team, is beneficial to both group members and legal counsel. The group members will have someone who will break down documents into simpler formats to comprehend rather than having to contact counsel to explain every document filed in the proceeding."²⁹ [emphasis added]

"Allowing the participation of a group representative, in cooperation with and under the supervision of legal counsel, not only reduces the amount of time charged for interacting with interveners, it increases the quality of representation to a standard more in alignment with the needs expressed

¹⁸ Decision 29146-D01-2024: Dolcy Solar Inc., Dolcy Solar + Energy Storage Project, Costs Award (September 25, 2024) at paragraph 20 ("**Dolcy Cost Decision**").

¹⁹ *Ibid*, paragraph 21.

²⁰ *Rule 009*, Appendix A, s 2.

²¹ J. Rondeau's Submissions, PDF page 4 at C(1)(i); Ackroyd LLP's Submissions, PDF page 2.

²² J. Rondeau's Submissions, PDF page 5 at C(2)(a); Ackroyd LLP's Submissions, PDF page 2.

²³ J. Rondeau's Submissions, PDF page 5 at C(2)(d) and (e); Ackroyd LLP's Submissions, PDF page 2.

²⁴ J. Rondeau's Submissions, PDF page 5 at C(2)(h); Ackroyd LLP's Submissions, PDF page 2.

²⁵ Ackroyd LLP's Submissions, PDF page 2.

²⁶ Law Society of Alberta's Code of Conduct (June 7, 2024) ("**Code of Conduct**").

²⁷ J. Rondeau's Submissions, PDF page 2 at A(3)(a); page 4 at C(1)(g); page 5 at C(2)(f); pages 6-7 at D(6-7); Ackroyd's Submissions: PDF page 3.

²⁸ J. Rondeau's Submissions, PDF page 2 at A(4).

²⁹ *Ibid*, PDF page 2 at A(3).

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by rural landowners. It brings interactions 'closer to home' and provides stakeholders with a sense of relief knowing that they have a 'proceeding know-it-all' at their disposal, who can help to reduce their frustrations by 'speaking their language' and by having intimate knowledge of their issues and concerns."³⁰ [emphasis added]

Lawyers who practice law in Alberta have a professional obligation to communicate with their clients in an effective manner considering the needs and sophistication of their clients.³¹ It is therefore unclear why J. Rondeau's participation would be necessary to improve communication between ELA Group members and their legal counsel.

J. Rondeau also suggests that her services are necessary because of the business hours³² and caseload³³ of legal counsel. However, regardless of their business hours and caseload, lawyers who practice law in Alberta also have a professional obligation to provide courteous, thorough, and prompt service to clients.³⁴ It is likewise unclear why J. Rondeau's participation would be necessary to ensure thorough or prompt delivery of legal services to ELA Group members.

Non-legal representatives or paid agents such as J. Rondeau are not subject to the same professional obligations as legal counsel. In particular, services provided by J. Rondeau do not include the protections afforded by lawyer-client privilege and the duty of confidentiality, even if such services are "incidental to the seeking and obtaining of legal advice."³⁵ Similarly, legal representatives have other professional obligations to avoid conflicts of interest³⁶ and act in good faith³⁷ which do not extend to non-legal representatives. Notably, the Commission has previously expressed concerns that the actions of non-legal representatives are not bound by a code of conduct.³⁸ While Ackroyd LLP has suggested that J. Rondeau could enter into a Confidentiality Agreement to address concerns related to confidentiality,³⁹ such an agreement would not offer the same extent of protections to parties in the Proceeding as those afforded by the professional obligations placed on legal counsel.

2. The Proposed Services are likely to increase the costs of the Proceeding, including the potential for "double recovery" of administrative or support costs under Rule 009

J. Rondeau suggests that the Proposed Services will result in reduced costs;⁴⁰ however, the accuracy of this statement is questionable upon consideration of her proposed costs and past claims for costs where J. Rondeau acted as a non-legal representative alongside legal counsel.

³⁰ *Ibid*, PDF page 6 at D(2).

³¹ Code of Conduct, Rule 3.1-1(d) and Rule 3.2-1 commentary [3].

³² J. Rondeau's Submissions, PDF page 7 at D(8).

³³ *Ibid*, PDF page 2 at A(2).

³⁴ Code of Conduct, section 3.2-1.

³⁵ *General Accident Assurance Co. v Chrusz* (1999), 1999 CanLII 7320 (ON CA), 180 D.L.R. (4th) 241 (Ont. C.A.) at page 51.

³⁶ Code of Conduct, Rule 3.4-1.

³⁷ *Ibid*, Rule 7.2-1.

³⁸ Exhibit 27837-X0211: AUC Rulings on SPWC Development GP Inc. motion to strike and Willow Ridge Action Group motion to provide copies of updated lease agreements (February 28, 2024), paragraphs 29-30.

³⁹ Ackroyd LLP's Submissions, PDF page 3.

⁴⁰ J. Rondeau's Submissions, PDF page 4 at B(c); page 7 at E(4)(b).

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For example, J. Rondeau plans to claim private vehicle mileage for site visits originating in Blackie (where she resides) and terminating in Wainwright, Edgerton, and project-adjacent residences.⁴¹ It is approximately 450 kilometres between Blackie and Wainwright, and 465 kilometers between Blackie and Edgerton. Consequently, if J. Rondeau intends to claim private vehicle mileage in accordance with the scale of costs under *Rule 009*, this could amount to more than \$500 per round trip from her residence in Blackie. Notably, the distance between Ackroyd LLP's office in Edmonton is approximately 245 kilometres from ELA Group members' residences, so anticipated travel costs for Ackroyd LLP staff would be roughly half of J. Rondeau's costs.

Furthermore, when looking at cost claims for past proceedings where Ackroyd LLP was retained to provide legal representation without the assistance of J. Rondeau as compared to proceedings where J. Rondeau has also acted as a paid agent, it is clear that J. Rondeau's participation has resulted in increased costs. For example, in the Dolcy Proceeding, Ackroyd LLP and J. Rondeau claimed a collective amount of \$130,700.00.⁴² In contrast, Ackroyd LLP represented a group of interveners without the services of a non-legal representative for the Aira Solar Power Project and claimed approximately \$83,800.00.⁴³ Similarly, in the cost claim proceeding for the Buffalo Trail Wind Power Project, Ackroyd LLP represented a group of interveners without the services of a non-legal representative and claimed approximately \$81,500.00.⁴⁴ Consequently, previous cost claims would suggest that J. Rondeau's participation could contribute to increased costs in the Proceeding rather than reducing them.

Part of the reason for increased cost claims in previous proceedings where both J. Rondeau and Ackroyd LLP acted as representatives could be attributed to the fact that J. Rondeau has completed work that duplicates the tasks of legal counsel or Legal Support Staff, the costs for which are already included in the claimed legal fees. As noted above, the scale of costs established under *Rule 009* accounts for work typically performed by Legal Support Staff as follows:

Legal fees are deemed to include all overhead charges implicit in the normal operation of a law firm, including work performed by administrative, clerical or support staff.⁴⁵

In other words, the fees charged and claimed by a lawyer in a proceeding are inclusive of any administrative or support services associated with the provision of legal services. In this Proceeding, J. Rondeau is proposing to provide administrative and support services that could instead be provided by Ackroyd LLP's Legal Support Staff. The costs for those administrative services are accounted for in the rates charged by Ackroyd LLP and the legal fees they are permitted to recover under *Rule 009*. Consequently, if J. Rondeau were eligible to recover costs for work typically performed by Legal Support Staff, this could effectively result in "double recovery" where Ackroyd LLP is already deemed to recover such administrative costs within its permitted legal fees.

⁴¹ *Ibid*, PDF page 7 at E(3).

⁴² Exhibit 29146-X0001: DLCC Submission of Justification and Cost Claim, PDF page 18.

⁴³ Exhibit 28341-X0002: FRAS Cost Claim and Submission of Justification, PDF page 12.

⁴⁴ Exhibit 27865-X0004: Cost Claim and Submission of Justification, PDF page 11.

⁴⁵ *Rule 009*, Appendix A, s 2.

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Conclusion

FMWI submits that cost recovery for J. Rondeau's provision of administrative, clerical or other support services would not be reasonable and should not be permitted by the Commission in the Proceeding. As noted above, FMWI understands that J. Rondeau can participate in the Proceeding as a member of the ELA Group. However, J. Rondeau has not been granted standing as an individual falling within the definition of "local intervener" in Section 22 of the *Alberta Utilities Commission Act* and is not eligible to file a costs claim seeking recovery of participation costs. FMWI therefore requests that the Commission issue a direction confirming that J. Rondeau, Ackroyd LLP and the ELA Group are not eligible to file a costs claim relating to the costs of J. Rondeau's participation in the Proceeding.

Should you have any questions or require any additional information, please do not hesitate to contact the undersigned or Elyse Bouey at 403-260-9651.

Sincerely,

Terri-Lee Oleniuk



Jasona Rondeau
PO Box 114
Blackie, AB T0L 0J0
cell: 403-401-3700

November 14, 2024

Via AUC eFiling

Alberta Utilities Commission
Eau Claire Tower
1400, 600 Third Avenue S.W.
Calgary, AB T2P 0G5

Attention: Dale Johnston, Commission Counsel
Olapeju Anozie, Commission Counsel

**Re: ELA Group Response to FMWI Reply Regarding Participation of Non-Legal Representative
(Exhibit 29226-X0091)**

Dear Mr. Johnston and Ms. Anozie,

As a registered group representative for the Edgerton Land Advocates Group ("ELA Group"), we appreciate this opportunity to provide a response to the above-named FMWI Reply document.

The intent of this message is to respond to the large number of issues raised in the FMWI Reply in a clear, organized, and efficient manner. Provision of this response is lengthy due to the fact that the AUC does not currently have set role definitions for legal counsel, agents, group representatives, consultants, experts, analysts, or the administrative and support staff employed by legal firms and consultants.

Additionally, to paraphrase what was relayed to me in response to a request for these definitions, if any of the terms used in *Rule 009* have not been defined as part of the rule itself, generally each Commission panel determines whether an individual matches the meaning of those terms based on the facts which have been presented for the Commission's consideration during the proceeding. The response further explained that while the Commission may develop certain practices over time regarding this matching of qualifications, ultimately the decision lies with each Commission panel who considers each cost claim on each proceeding.

Consequently, provision of this level of detail is made in effort to provide the Commission with sufficient proceeding-specific role definitions for "legal counsel" and "group representative", on which future decisions about the ELA Group Cost Claim are likely to be based.

Respectfully Submitted,

Jasona Rondeau, BEd.
ELA Group Representative

Issues for Consideration (in order of appearance from Exhibit 29226-X0091)

1. Response to FMWI introduction

- a) Reference:(PDF page 1) "FMWI believes that J. Rondeau's participation as a paid agent of the ELA Group is not necessary in light of Ackroyd LLP's legal representation."
 - i) It is not appropriate for FMWI to assess the needs of the ELA Group regarding legal or non-legal representation. The needs of interveners can only be appropriately assessed by their representatives in this case, as FMWI does not have relevant experience in assessing needs from an intervener perspective. Both Ms. Rondeau and Ackroyd LLP are skilled and experienced in assessing the needs of property-adjacent landowners and the surrounding affected community.
- b) Reference:(PDF page 1) "While FMWI understands that J. Rondeau can participate in the Proceeding as a member of the ELA Group, it would not be reasonable for J. Rondeau to recover fees or costs for such participation."
 - i) Ms. Rondeau has not registered as an intervener in this proceeding nor has she registered as an ELA Group Member; while she has numerous local ties to the community that increase her social license within it, she is not a local intervener.
 - ii) This statement assumes that her participation should be limited to that of an intervener without standing, while she has not registered to participate in this manner nor has she stated any intended participation as an intervener in this proceeding.
 - iii) Registration to participate as a group representative is not equivalent to registering as an intervener or ELA Group member and should be recognized as such by FMWI.

2) Response to Reason #1 (PDF page 2): Overlap of Services Provided

- a) Reference: (PDF page 3)"These Proposed Services include the same tasks performed by J. Rondeau in the Dolcy Solar and Energy Project proceeding ("**Dolcy Proceeding**") for which costs claimed by J. Rondeau were denied.^{18"}
 - i) This statement is factually incorrect as only very specific services were claimed and consequently denied, not the entire suite of services offered and rendered during Proceeding #28723. Please refer to Exhibit 29146-X0001 PDF pages 71-72 for a statement of the actual costs claimed and PDF page 22 (second and third bullet points) for the complete list of tasks performed and which specific services were provided voluntarily compared to a much smaller number of services formally claimed as costs and consequently denied.
 - ii) Tasks invoiced included: conducting a site visit to collect evidence (with no mileage, travel time, or accommodation claimed), conducting interviews with 3


J. RONDEAU
J. RONDEAU
J. RONDEAU

registered interveners to complete the Ackroyd LLP Landowner Questionnaire, direct evidence document preparation for 3 parties involving transcription of recorded audio and electronic transmittal to legal counsel, and for submission of Exhibit 28723-X0121, the David Lake Concerned Citizens's Participant Involvement Program Report ("DLCC PIP Report").

- iii) To provide further clarification, while the costs for preparation of the DLCC PIP Report were formally denied, the Commission made no comment upon the costs invoiced for the remaining stakeholder engagement-related items claimed.
 - iv) Although these specific charges were not ruled upon, there is sufficient evidence to show that no duplication of tasks or attempts to double-recover costs occurred. Please additionally refer to Exhibit 29146-X0001, PDF pages 34-35 of the Ackroyd LLP itemized Statement of Account described in the next point.
 - v) On April 29, 2024, Mr. Secord reviewed and revised the Direct Evidence of Hilson & Linda Maull; on April 30, 2024, he reviewed and revised the Direct Evidence of Darren & Susan Kvigstad, Dale Scott, and Bob & Roxy McBride. On May 1, 2024, he further reviewed and revised the Direct Evidence for all parties. There are no costs claimed for collection of this evidence, for its transcription or for its electronic transmittal. These costs were incurred and claimed only by Ms. Rondeau, exemplifying both an avoidance of double-recovery and an appropriate delegation of tasks.
- b) Reference:(PDF page 3) "the submissions provided by J. Rondeau and Ackroyd LLP in this Proceeding do not clarify why such tasks could not be performed exclusively by legal counsel with the assistance of the administrative, clerical, or support staff (collectively, the **Legal Support Staff**) who typically support in the normal operation of a law firm."
- i) This statement assumes that there is a need for law firms to exclusively provide services by using in-house support staff without retaining additional consultants they deem necessary on a project-specific basis and/or as expressed by clients.
 - ii) Further to this, the Commission does not currently prohibit legal counsel and group representatives working cooperatively on the same proceeding; this demonstrates the capacity for their collaboration being built-in to the eFiling system and its related processes and procedures
 - iii) This statement also assumes that the scope of work completed by a stakeholder engagement consultant is similar or equal to the scope of work an administrative, clerical, or support staff member at a legal firm may perform. A consultation with Chat GPT on this issue shows significant differences between these two roles.

Question #5

In this context, would it be reasonable to consider a stakeholder engagement consultant as equivalent to an administrative, clerical, or support staff role?


J. RONDEAU
JURISTE
ORDRE DES AVOCATS DU QUÉBEC