

Answer #5

It would not be reasonable to consider a stakeholder engagement consultant as equivalent to an administrative, clerical, or support staff role in the context of regulatory proceedings. Stakeholder engagement consultants play a specialized, strategic role focused on facilitating communication, bridging cultural gaps, and ensuring that stakeholders are adequately informed and included in meaningful ways, especially in cases involving diverse or marginalized groups.

Here are several distinctions that clarify why stakeholder engagement consultants are not akin to support staff:

- 1. Specialized Skills and Strategic Role: Stakeholder engagement consultants require expertise in cultural dynamics, communication strategies, and conflict resolution. Their role often includes understanding the regulatory context and tailoring messages to different stakeholder needs, which goes beyond the administrative duties typical of support staff. They work at a strategic level to ensure meaningful participation and to help address complex issues that might otherwise lead to misunderstandings or resistance.*
- 2. Ethical and Regulatory Implications: Many regulatory frameworks, like the OECD Guidelines, stress the need for proactive, culturally sensitive engagement with affected communities. Stakeholder consultants bring a nuanced understanding of these frameworks and help meet legal or ethical obligations for inclusive engagement. This strategic contribution supports the effectiveness and legitimacy of regulatory proceedings, which is far beyond what an administrative or support role would typically handle.*
- 3. Focus on Enhancing Decision-Making Quality: The Regulatory Review explains that effective stakeholder engagement can significantly improve decision-making by ensuring diverse perspectives are considered early in the process. Engagement consultants contribute to this by designing inclusive communication approaches that facilitate stakeholder input and build trust—tasks that directly impact regulatory outcomes and require specialized knowledge beyond clerical support.*

Thus, while engagement consultants might handle some logistical tasks, their primary role is highly specialized, focusing on stakeholder

relationships, communication strategies, and cultural understanding that aligns with strategic goals rather than support functions.

- c) Reference:(PDF page 3) "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 each of the five references made following this statement, it can be shown that FMWI's classifying of the tasks for each representative as the same, is incorrect.
- i) Footnote 21: that both parties "are supporting with the formation of the ELA Group"; providing a summary for duties contained within a broader task does not make them the same task. Examined independently below, these are not the same tasks.
 - (1) Page 4 C(1)(i) states: registered 34 group members
 - (2) PDF Page 2 states: working with/liaising with non-legal representative to form ELA Group and to bridge communications with ELA Group members, and to identify their concerns
 - ii) Footnote 22: "working with ELA Group members to provide Information Responses"; references given show that Ms. Rondeau's task would be more limited and specific than the broader task stated to be performed by legal counsel confirming that these are indeed two separate although related tasks.
 - (1) Page 5 C(2)(a) states: contact individual landowners who need to provide responses to information requests and advise them to contact counsel. Should they wish, I will take the required response from them and send it to counsel.
 - (2) PDF Page 2 states: working with expert consultants and ELA Group members to pose information requests and provide responses
 - iii) Footnote 23: "receiving direct evidence from ELA Group members". Please note the obvious differences in verbs being used: collect and assist vs. review and assess. Clearly, these are not the same tasks being performed by two people.
 - (1) Page 5 C(2)(d) states: collect direct evidence questionnaire and assist in collecting resources for Direct Evidence submissions
 - (2) PDF Page 2 states: reviewing and assessing the evidence
 - iv) Footnote 24: "preparing ELA Group members for the hearing". While this statement is broad in scope, the tasks as stated below demonstrate a division of duties within the broader task. Ms. Rondeau's duties would be more limited in scope and specific in their objectives; legal counsel's duties contains legal-related objectives and carry a higher level of responsibility and expertise


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- (1) Page 5 C(2)(h) states: answer questions and provide video resources to prepare interveners for testimony during the oral hearing
- (2) PDF Page 2 states: preparing experts and ELA for Direct Evidence and cross-examination for virtual hearing
- v) Footnote 25: "Ackroyd LLP describes these tasks as "appropriate for/call for/ only applicable to the work of legal counsel. It is therefore unclear why a non-legal representative is necessary to support such tasks in addition to legal counsel."
 - (1) This statement is troubling because the place where that phrase has been extracted only applies to the description of the tasks the lawyers intend to perform and not to all tasks to be performed collaboratively with Ms. Rondeau.
 - (2) It appears that there may be some ambiguity in the reference provided by FMWI above. Ms. Beyko's statement can be edited and restated for clarity, as follows:
 - (a) In addition to the tasks I have taken thus far on this matter, the tasks that we undertake as this Proceeding continues, will be tasks that **are appropriate for legal counsel, that call for legal counsel, and that may, in some cases, only be applicable to legal counsel.**
 - (3) Not all tasks require a lawyer to carry them out. Ms. Beyko further states: "Tasks that are required to manage and conduct the ELA Group's intervention in this matter *which do not require legal expertise* can be handled by Ms. Rondeau, therefore leaving us lawyers with more time to focus on the tasks that require legal expertise."
- d) Reference: (PDF page 4) "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. It is therefore unclear why J. Rondeau's participation would be necessary to improve communication between ELA Group members and their legal counsel." The following Chat GPT consultation can provide more clarity below:

Question #2

If 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 individual clients, does it make sense to hire a stakeholder engagement consultant to act as an intermediary, bridging cultural and communication gaps, and provide more opportunities for meaningful communication and participation in a proceeding?


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Answer #2

Yes, hiring a stakeholder engagement consultant as an intermediary can be a highly effective strategy, especially in complex regulatory proceedings where cultural and communication differences may hinder effective understanding and participation. This approach can enhance the quality of service by addressing the diverse needs of clients in the following ways:

- 1. Bridging Cultural Gaps: A stakeholder engagement consultant can provide insight into the cultural and social contexts of different landowner groups. This is especially important if there are Indigenous landowners or groups with specific cultural considerations that may affect their perspectives on the proceedings. A consultant can help translate legal language and concepts into culturally relevant terms, which can make the information more accessible and meaningful.*
- 2. Enhancing Effective Communication: Lawyers in Alberta are professionally obligated to communicate effectively, but a stakeholder engagement consultant can help ensure that communication is not only clear but also resonates with each client group's level of sophistication and preferred communication style. For clients with limited experience in legal matters, the consultant can help interpret complex legal concepts, provide additional context, and ensure that questions are addressed in a way that fosters understanding.*
- 3. Increasing Participation and Trust: An intermediary can facilitate more meaningful engagement by creating spaces for clients to express their concerns, ask questions, and participate actively. The consultant can also help manage expectations by clearly explaining what clients can anticipate at each stage of the proceeding. This added layer of communication can build trust, reduce potential misunderstandings, and ensure that landowners feel heard and represented.*
- 4. Efficient Information Flow: Having a consultant as a liaison can streamline the communication process, helping to relay information between the legal team and client groups efficiently. The consultant can gather questions, concerns, and feedback from the groups and pass them to the legal team in an organized manner, allowing lawyers to address issues more effectively*

without spending significant time on individualized communication logistics.

5. *Focusing Legal Resources on Core Issues: By delegating cultural and communication-oriented tasks to a stakeholder engagement consultant, legal counsel can focus more on the core legal strategy and advocacy. This division of labor allows for a more efficient use of resources and can improve the overall quality of legal representation.*

In sum, bringing in a stakeholder engagement consultant can enhance communication, cultural sensitivity, and trust in the legal process, making it easier for the legal team to meet their professional obligations while allowing clients more meaningful participation. This approach may also demonstrate a proactive, client-centered commitment to inclusivity and accessibility, which is increasingly valued in quasi-judicial settings.

- e) Reference:(PDF page 4) "J. Rondeau also suggests that her services are necessary because of the business hours and caseload of legal counsel."
 - i) Ackroyd LLP's current AUC-related caseload is significant as their lawyers are cumulatively providing legal representation on 16 out of approximately 25 different and unique facilities proceedings currently before the Commission. It is both responsible and prudent for them to retain additional resources to manage this unprecedented influx of applications, all requiring to be processed concurrently according to the Commission's pre-determined timelines.
 - ii) Not all proceedings require a stakeholder engagement consultant but for the ones that do, Ackroyd LLP should be allowed to form professional relationships and contracts with consultants to continue to be able to provide exceptional service to their clients.
 - iii) Having a group representative who is more available than a lawyer does not negate the amount of time legal counsel is available to their clients or diminish the quality of services they are providing - it adds to them and enhances them.
- f) Reference:(PDF page 4) "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."
 - i) This statement is misleading because it proposes that Ms. Rondeau has a necessity to ensure thorough and prompt delivery of legal services to ELA Group members; no such need or task has been stated as performed to date or as intended in the future.
 - ii) While her participation is not obligatory to ensure the prompt and thorough delivery of legal services to members of the ELA Group, it provides substantial


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benefits (highlighted in point d) PDF page 6) to both legal counsel and interveners that should not be diminished or ignored.

- g) Reference: (PDF page 4) "While Ackroyd LLP has suggested that J. Rondeau could enter into a Confidentiality Agreement to address concerns related to confidentiality, 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."

- i) While a confidentiality agreement was originally proposed, both Ms. Rondeau and Ackroyd LLP are willing to increase the coverage of this agreement to include: conflicts of interest, acting in good faith, an appropriate code of conduct, in addition to confidentiality provisions if so directed by the Commission.
- ii) It is important to note that stakeholder engagement consultants employed or contracted by FMWI and all other facility applicants, are not required to be certified land agents or other individuals bound by a specific code of conduct in this regulatory environment. They are also not required to be lawyers.

3) Response to Reason #2 : Proposed Services Likely to Increase Costs

- a) Reference: (PDF page 4) "J. Rondeau suggests that the Proposed Services will result in reduced costs; 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 counsel."

- i) Ms. Rondeau has only submitted ONE claim for costs associated with an AUC proceeding acting alongside counsel in Proceeding #28723. To state that she has made past claims - in the plural - misleads the reader and is so corrected.
- ii) This single cost claim is described above in detail on PDF Page 2 at 2 a) i)- v)

- b) Reference: (PDF page 5) Claims for vehicle mileage

- i) While it is factually correct that a higher amount for mileage would need to be claimed by Ms. Rondeau, due to the greater distance she would need to travel, it is much more cost-effective to have her attend the project area as she is able to spend multiple days, accomplishing numerous tasks in a condensed time period, and accumulating lower costs overall, when more than just mileage is considered.
- ii) If you factor in Ms. Beyko's hourly fee of \$430, her reduced hourly fee for travel time, mileage, and potential to claim for meals and accommodation if an overnight stay was required, Ms. Rondeau's associated costs would be considerably less.

- (1) Meals and accommodations are provided for Ms. Rondeau by ELA Group members.



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- (2) As a General Consultant with 7 months of AUC-related work experience, Ms. Rondeau's pro-rated hourly fee of \$93.28 represents a cost reduction of 78% on hourly legal fees alone.
 - (3) A difference of \$242 between representatives for mileage for conducting a single site visit is an interesting issue to highlight as a potential increase to costs claimed over all other costs associated with this Proceeding.
- c) Reference: (PDF page 5) "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. 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."
- i) For the second time, FMWI states that Ms. Rondeau has acted as a paid agent in multiple "proceedings" - in plural - when she has only participated in Proceeding #28723 previously.
 - ii) In the Dolcy Proceeding, Ackroyd LLP had a greater number of experts to manage, six (6), than on the Aira Proceeding, three (3).
 - iii) In the Dolcy Proceeding, Ackroyd LLP had a greater number of interveners to manage, six (6), than on the Aira Proceeding, two (2).
 - iv) In the Dolcy Proceeding, Ackroyd LLP had a greater number of issues to explore than on the Aira Proceeding. On Dolcy, issues such as BESS safety and the implications of Minister Neudorf's Policy Guidance including added emphasis on the agriculture-first approach and reclamation security; these were not explored in as much detail or at all (in the case of BESS safety) on Aira.
 - v) Taking these additional factors into consideration, it appears that while a higher cost was incurred on the Dolcy project for representation, the amount of work was considerably greater and more novel compared to the Aira Proceeding, justifying proportionally higher expenditures and indicating a proportional cost savings for representation rather than increased costs as FMWI suggests.
- d) Reference: (PDF page 5) "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."
- i) The use of "previous proceedings" - in the plural - is, for a third time, misleading since Ms. Rondeau and Ackroyd LLP have only acted together as


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representatives on ONE proceeding, not multiple proceedings as the plurality implies.

- ii) Since the date of Dolcy's application was December 15, 2023, the version of *Rule 009* that applied to it was in effect from May 2, 2016 to February 29, 2024. In this version of *Rule 009*, the two points below are stated regarding fees for secretarial and support staff.

- (1) Legal fees are deemed to include all overhead charges implicit in the normal operation of a law firm. The Commission will not award legal fees for secretarial/support staff work. The fees for this work must be claimed as secretarial/staff support fees.

- (2) Fees for secretarial/support staff; Secretarial/support staff \$45 per hour

- iii) In Exhibit 29146-X0001 PDF pages 71-72, Ms. Rondeau charged the appropriate amount of \$45 per hour for the administrative and support-related work performed. Given the timing of the Dolcy Proceeding, FMWI has applied the incorrect version of *Rule 009* while expressing this particular concern.

- e) Reference: (PDF page 5) "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*."

- i) Ms. Rondeau is not proposing to provide administrative and support services in lieu of Ackroyd LLP's Legal Support Staff. Ms. Rondeau is proposing to provide stakeholder engagement services as a general consultant with 7 months of formal experience in AUC proceedings.

- ii) Her hourly rate of \$93.28 has been reduced from the hourly rate allowed for a general consultant with 1 year of AUC-related experience (\$160 per hour) by 5 months since Ms. Rondeau had accrued 7 months of experience at the time of FMWI's application submission.

- iii) Ms. Rondeau is both qualified and experienced as an educational and communications consultant due to her relevant post-secondary education and previous employment. Her most recent CV was submitted as part of Exhibit 29146-X0001 PDF pages 73-76.

- iv) While Ms. Rondeau possesses many of the skills and qualifications Legal Support Staff share, she is able to leverage those skills in combination with her professional training and experience in education and communications, fulfilling the role of a specialized stakeholder engagement consultant to a high degree of proficiency and with an appropriate level of professionalism than Legal Support Staff could attempt to accomplish.


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- v) Please consider the expertise and skill required to create and submit this particular response filing. It is Ms. Rondeau's and Ms. Beyko's opinion that staff employed in an administrative support role at a legal firm would be significantly under-qualified to execute this specific task in a comparable manner and to a similar level of proficiency..
- f) Reference: (PDF page 6) "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."
- i) Ms. Rondeau is not proposing to provide administrative, clerical, or other support services in the Proceeding. The following Chat GPT consultation provides significant clarity on the expertise required and held by Ms. Rondeau which qualifies her as a stakeholder engagement consultant, on a level similar to Mr. David Berrade (the Applicant's Stakeholder Engagement representative) in caliber and degree of specialization in relation to clients served.

Question #7

Please detail the specialized expertise that stakeholder engagement consultants should have in order to conduct this type of work.

Answer #7

Stakeholder engagement consultants bring a range of specialized expertise to regulatory and quasi-judicial proceedings, particularly when bridging communication gaps and ensuring effective participation for diverse or marginalized groups. Here are the key areas of expertise they typically possess:

1. *Cultural Competency and Sensitivity: Consultants must understand cultural nuances, communication preferences, and potential biases that may affect how different stakeholder groups interact with regulatory processes. This is especially important when working with Indigenous communities or culturally diverse populations, as they may have unique legal rights, historical contexts, or preferred engagement practices.*
2. *Communication and Facilitation Skills: Effective stakeholder engagement requires clear, accessible, and persuasive communication tailored to different levels of familiarity with the regulatory process. Consultants are skilled in translating complex legal or technical language into terms that are understandable and meaningful for diverse audiences. They often facilitate meetings, mediating between stakeholders and the regulatory team to ensure that all parties feel heard and respected.*
3. *Conflict Resolution and Negotiation: Engagement consultants are trained in conflict resolution techniques, as stakeholder engagement can involve navigating disagreements, grievances, or mistrust. They apply negotiation skills to resolve conflicts, build consensus, and foster collaborative relationships, helping regulatory bodies manage potentially adversarial interactions smoothly.*


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4. *Regulatory Knowledge and Process Awareness: Consultants should have a solid understanding of the regulatory environment, relevant laws, and procedures, allowing them to guide stakeholders through the complexities of regulatory hearings or consultations. This background enables them to prepare stakeholders for what to expect, ensuring meaningful and informed participation.*
5. *Stakeholder Mapping and Analysis: Consultants use stakeholder mapping to identify relevant parties, understand their interests, concerns, and influence, and determine the best strategies for engagement. This analysis helps regulatory bodies prioritize engagement efforts and adapt strategies to address specific stakeholder needs effectively.*
6. *Ethical and Inclusive Engagement: Engagement consultants prioritize ethical engagement by ensuring that participation is inclusive and accessible. This involves creating communication materials that accommodate different literacy levels, languages, and accessibility needs, so that all stakeholders can participate fully.*
7. *Project Management and Coordination: Managing stakeholder engagement efforts often involves coordinating with various regulatory and community groups, tracking engagement activities, and documenting feedback. Consultants need project management skills to ensure that engagement processes are organized, timely, and aligned with the overall regulatory timeline.*

These combined skills enable stakeholder engagement consultants to play a crucial role in regulatory proceedings, fostering trust, clarity, and inclusivity while ensuring that the regulatory body meets legal and ethical obligations for meaningful consultation.

Conclusion

FMWII claims that allowing both legal and non-legal representation in this Proceeding will create an overlapping “of services that legal counsel has committed to or is otherwise obligated to provide” and that this collaboration will “increase the costs of the Proceeding, including the potential for “double recovery” of administrative or support costs under Rule 009.” These concerns are unrealistic in light of the information that has been provided in this response.

On PDF Page 2 of Exhibit 29226-X0091, “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.”

Ackroyd LLP, Ms. Rondeau, and the ELA Group members are opposed to the issuance of this requested direction, for all of the reasons detailed in this submission. We contend that such a direction would be


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prejudicial to these three parties and respectfully offer the following recommendations for consideration by the Commission:

1. Direct Ackroyd LLP and Ms. Rondeau to undertake to provide a proceeding-specific agreement binding Ms. Rondeau to confidentiality, acting in good faith, a code of conduct, and managing conflicts of interest that may arise in the course of the Proceeding.
2. Classify Ms. Rondeau as a stakeholder engagement consultant who is eligible to claim costs in conjunction with the provision of a preliminary budget or cost estimate for Ms. Rondeau's services.
3. Allow this Proceeding to be the necessary test for a novel collaboration between legal and non-legal representation in the interest of providing stakeholders with increased opportunities to meaningfully participate and contribute the information that is most essential for the Commission to consider in this Proceeding.