Alberta Utilities Commission

FortisAlberta Inc.

Type 1 Capital Tracker Application

April 25, 2025

Alberta Utilities Commission
Decision 29513-D01-2025
FortisAlberta Inc.
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Proceeding 29513

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Published by the:

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

Telephone: 310-4AUC (310-4282 in Alberta)
1-833-511-4AUC (1-833-511-4282 outside Alberta)
Email: info@auc.ab.ca
Website: www.auc.ab.ca

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1 Decision summary

1. As the owner of an electric utility and an electric distribution system, the rates that FortisAlberta Inc. is permitted to charge customers in each year are set under performance-based regulation (PBR). PBR is currently in its third term, which runs between 2024 and 2028 (PBR3).[1] Under its PBR3 plan, Fortis is required to manage its costs in accordance with the general envelope of funding provided by the rate indexing mechanism and the Type 2 supplemental capital mechanism unless it can demonstrate that certain costs are eligible for funding under one of the other plan parameters. One of these other plan parameters is the Type 1 capital tracker mechanism, which provides supplemental funding for capital projects that meet the approved criteria.[2]

2. In this decision, the Alberta Utilities Commission considers Fortis's application for Type 1 capital tracker funding in relation to its Advanced Metering Infrastructure (AMI) Program and its Forestry Protection Program. In accordance with Decision 27388-D01-2023, Fortis has applied for Type 1 capital tracker treatment based on forecast capital costs.[3] In total, Fortis is seeking supplemental capital funding on an interim basis of $67.8 million in revenue for the AMI Program (related to $229.1 million in Type 1 capital additions between 2025 and 2028) and $23.5 million in revenue for the Forestry Protection Program (related to $125.7 million in Type 1 capital additions between 2025 and 2028).[4]

3. For the reasons set out in this decision, the Commission denies Fortis's application because neither the AMI Program nor the Forestry Protection Program meet all of the criteria for Type 1 capital tracker treatment eligibility. Specifically, the Commission finds that neither program meets Criterion 1, which requires that the project must be extraordinary and not previously included in the distribution utility's rate base. Similarly, neither program meets Criterion 2, which requires that the project must be required by a third party, or otherwise directly caused by applicable law related to net-zero objectives.

2 Background

4. As described above, electric and gas distribution utilities in Alberta, including Fortis, are regulated under the PBR3 plans approved in Decision 27388-D01-2023.[5] Under its PBR3 plan,

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[1] Decision 27388-D01-2023: 2024-2028 Performance-Based Regulation Plan for Alberta Electric and Gas Distribution Utilities, Proceeding 27388, October 4, 2023.
[2] Decision 27388-D01-2023, PDF page 64, paragraph 230.
[3] Decision 27388-D01-2023, PDF page 76, paragraph 283.
[4] Exhibit 29513-X0002, application, PDF page 8, Table 1-1, sum of rows B and C.
[5] Decision 27388-D01-2023. The provisions of the PBR3 plan established are generic in a sense that the established parameters apply to all distribution utilities subject to the plan. However, each distribution utility uses its own individual utility data to set its rates under PBR3. Therefore, the use of the "PBR3 plan" or "PBR3 plans" is interchangeable.

the bulk of the revenue to fund Fortis's normal course distribution utility operations is provided through an I-X indexing mechanism, that adjusts Fortis's established going-in rates every year for inflation (the I factor) less a productivity offset (the X factor).[6] Fortis's going-in rates for PBR3 were established in Decision 26615-D01-2022, after a comprehensive rebasing process in which the Commission examined, on a cost-of-service basis, the entirety of Fortis's forecast costs to provide distribution utility service in 2023.[7] The 2023 rebasing review included examining multi-year business cases of forecast capital expenditures.

5. In addition to the I-X mechanism, there are other potential sources of revenue available under the PBR3 plans. The Z factor provides funding for costs associated with exogenous events outside of the control of the distribution utility. The Y factor provides funding for costs that are flowed through to customers and certain expenses that are incurred at the direction of the Commission. There are also two supplemental capital funding mechanisms: the K-bar mechanism for Type 2 (normal course) capital, and the capital tracker mechanism for Type 1 (extraordinary) capital.[8]

6. The K-bar mechanism for funding Type 2 capital is not dependent on the utility forecasts and is not designed to provide funding for specific incurred expenditures.[9] Rather, it is determined based on the five-year average of the actual capital additions during the prior PBR plan; in this case, PBR2, which was in place from 2018 to 2022. The incentive for Fortis is to find opportunities to lower its overall costs anywhere in its business during the PBR3 term. If Fortis is able to reduce its overall costs below the approved revenue, it will be able to exceed the approved rate of return.[10] In Decision 27388-D01-2023, the Commission explained that K-bar supplements the funding provided by the I-X mechanism and that together these funding mechanisms provide a general revenue envelope for the management of business-as-usual activities and a reasonable opportunity to earn the approved rate of return.[11] Overall, the Commission expressed the view that the I-X mechanism (which escalates each utility's going-in rates), combined with K-bar based on five years of each utility's actual expenditures in PBR2, along with other elements of the PBR3 plans, would provide each distribution utility, including Fortis, with a reasonable opportunity to recover prudent costs and earn the approved return in PBR3.[12]

7. In contrast to K-bar, Type 1 capital trackers are a safety mechanism to address the potential for capital expenses that are extraordinary in nature.[13] Approved Type 1 capital tracker funding is based on forecast capital costs for specific programs. Eligible forecast costs are then trued up to actual capital costs when these actuals become available.[14] In other words, Type 1 capital tracker funding is directly linked to the utility's costs for the capital project or program being tracked and, therefore, operates outside of the general PBR premise of severing the link

6 Proceeding 29297, Fortis 2025 annual rates application, Exhibit 29297-X0099, Updated Schedule 4.1 - A to E 2025 Revenue and Rate Design - 90 per cent Type 1 Placeholder Removed, tab 4.1-A1 2025 PBR Rev Breakdown: Revenue from the PBR formula is $565.6 million while K-bar funding is $31.9 million.
7 Decision 26615-D01-2022: ATCO Electric Ltd. and FortisAlberta Inc., 2023 Cost-of-Service Review, Proceeding 26615, July 28, 2022.
8 See for example Decision 27388-D01-2023, PDF page 65, paragraphs 232-233.
9 Decision 27388-D01-2023, PDF page 53, paragraph 183.
10 Decision 27388-D01-2023, PDF page 9, paragraph 11.
11 See for example Decision 27388-D01-2023, PDF page 57, paragraph 201.
12 See for example Decision 27388-D01-2023, PDF page 60, paragraph 211.
13 See for example Decision 27388-D01-2023, PDF page 64, paragraph 229.
14 Decision 27388-D01-2023, PDF page 76, paragraph 283.

between a utility's costs and revenues.[15] Because of this, capital funded under the Type 1 capital tracker mechanism is not subject to any PBR incentives, unlike the Type 2 capital funded under the general envelope of funding provided by the I-X mechanism and K-bar.

8. The Commission divided capital funding into Type 1 and Type 2, and specifically limited eligibility to extraordinary expenditures under Type 1 funding, to strike an optimal balance between maximizing the incentives of the PBR3 plans while ensuring that an undue level of risk is not imposed on the distribution utilities.[16] In recognition of the limited incentive power of Type 1 capital, discussed above, the Commission explained that in establishing the criteria for Type 1 capital tracker eligibility, it sought to ensure that the majority of capital funding under PBR3 would be subject to the incentives of PBR. The Commission explained that this could be achieved by ensuring that only truly extraordinary expenditures qualify for Type 1 funding with the majority of funding to be provided through either the I-X mechanism or K-bar.[17] As explained by the Office of the Utilities Consumer Advocate (UCA) in this proceeding, "[p]ut simply, the fact that nearly all programs are unable to qualify for Type 1 is a feature, not a bug."[18]

9. In its discussion of Criterion 1, the Commission also explained that including overly broad Type 1 capital tracker funding criteria would be inconsistent with PBR incentives. This is because the Commission found that doing so would run the risk that distribution utilities could pursue methods of shifting capital costs that would otherwise be funded through the I-X mechanism and K-bar to Type 1 capital. As capital costs that are approved for Type 1 funding are recovered from customers essentially on a flow-through basis, a broad Type 1 capital tracker funding mechanism could allow distribution utilities to earn higher returns on equity without finding efficiencies and would result in higher prices for customers.[19] Neither of these outcomes is consistent with the purpose of the PBR3 plans or, more broadly, with the Commission's mandate to set just and reasonable rates.

10. For the PBR3 term, the Commission determined that projects are eligible for Type 1 capital tracker treatment if the following three criteria are met:

(i) the project must be extraordinary and not previously included in the distribution utility's rate base;

(ii) the project must be required by a third party, or otherwise directly caused by applicable law related to net-zero objectives; and

(iii) the project cost must have a material effect on the distribution utility.[20]

11. In addition to meeting the three criteria, an application for Type 1 capital funding must also meet the minimum filing requirements (MFRs).[21] The information in the MFRs assists the

15 For an overview of PBR, see Section 2.1 of Decision 27388-D01-2023, PDF pages 8-11.
16 Decision 27388-D01-2023, PDF page 64, paragraph 229.
17 Decision 27388-D01-2023, PDF page 68, paragraph 246.
18 Transcript, Volume 1, page 64.
19 Decision 27388-D01-2023, PDF page 69, paragraph 254.
20 Decision 27388-D01-2023, PDF page 64, paragraph 230.
21 See Decision 27388-D01-2023, PDF page 73, paragraph 269, in which the Commission adopts three new MFRs and confirms the continued use of the MFRs established in Decision 3558-D01-2015: Distribution Performance-Based Regulation Commission-initiated Proceeding to Consider Modifications to the Minimum Filing Requirements for Capital Tracker Applications, Proceeding 3558, Application 1611054-1, April 8, 2015, listed on PDF pages 29-30, Appendix 3.

Commission in determining whether it should approve Type 1 capital tracker funding for a proposed project.[22]

3 Fortis's Type 1 capital tracker application

12. On October 23, 2024, Fortis filed an application in which it requested Type 1 capital tracker treatment for the AMI Program and the Forestry Protection Program (respectively described in sections 3.1 and 3.2 below). In its application, Fortis requested the following incremental funding for Type 1 capital based on its forecast capital additions over the PBR3 term for each of the AMI Program and the Forestry Protection Program: [23]

Table 1. Type 1 PBR3 annual revenue requirement funding and capital additions applied for by Fortis[24]

Program	2025	2026	2027	2028	Total
	($ million)				
Revenue Requirement					
AMI	5.5	12.6	20.8	28.9	67.8
Forestry Protection	2.2	4.8	7.0	9.5	23.5
Total	**7.7**	**17.4**	**27.8**	**38.4**	**91.3**
Capital Additions					
AMI	48.1	59.7	62.4	58.9	229.1
Forestry Protection	34.1	29.5	29.6	32.5	125.7
Total	**82.2**	**89.2**	**92.0**	**91.4**	**354.8**

13. Fortis also submitted that it had met the MFRs for each of the AMI Program and the Forestry Protection Program.

14. The Commission determined that it would bifurcate this proceeding into two modules. In this first module, the Commission determines whether the Type 1 capital criteria have been met.[25] If the Commission was to determine that one or both of the applied-for programs meet the Type 1 capital criteria, it would then proceed in Module 2 to assess the reasonableness of the 2025-2028 forecast capital revenue requirement for those programs.

3.1 Advanced Metering Infrastructure Program

15. Under the AMI Program, Fortis plans to: (i) replace all of its current Power Line Carrier (PLC) AMI meters with new AMI meters; (ii) provision the supporting communication network to cover all of its meters by 2029; and (iii) implement and integrate a single head-end system to support load settlement and billing. Fortis stated that the AMI metering system[26] replacement is planned to occur over a relatively short period of time (between 2024 and 2029) and will include the replacement of all meters (an estimated 760,000 meter installations) in Fortis's service territory. Fortis further explained that due to the technological difference between the

[22] Decision 27388-D01-2023, PDF page 73, paragraphs 269-270.
[23] Exhibit 29513-X0002, application, PDF page 23, paragraphs 72-73, citing to Exhibit 29513-X0003, Appendix A - Advanced Metering Infrastructure; Exhibit 29513-X0004, Appendix B - Forestry Protection; and Exhibit 29513-X0008, Appendix C - Type 1 Capital Tracker Roadmap.
[24] This table was prepared by the Commission based on the information provided in Exhibit 29513-X0009, Appendix D Expanded Accounting Test, Schedule 1.
[25] Decision 27388-D01-2023, PDF page 69, Section 8.4.4.
[26] An AMI metering system includes the AMI meters, communication and back-end support systems, and data collection.

proposed and the current AMI metering system, this program includes updating all its supporting systems infrastructure.[27]

16. Specifically, Fortis described the scope of its AMI Program as including the installation of bi-directional, interval, and disconnect and reconnect-capable AMI meters for the replacement of existing customer meters and customer growth. Upon completion of the AMI Program, Fortis submitted that its AMI meters will facilitate the implementation of new capabilities, including sub-hourly load settlement as recommended by the Alberta Electric System Operator, and new rate structures, and that associated future technology benefits for customers include improved outage information, faster outage responses and restoration, and more timely and detailed customer usage information.[28]

3.2 Forestry Protection Program

17. Fortis submitted that the Forestry Protection Program includes the activities by Fortis to comply with its obligations under its Forest Protection Area (FPA) Agreement that mandates Fortis to effectively manage the wildfire risk associated with the operation of distribution system infrastructure in the forest protection area.[29]

18. Fortis submitted that the Forestry Protection Program includes the implementation of advanced techniques and innovative approaches to manage wildfire risks, not previously available to Fortis. Fortis further stated that it is evolving its Forestry Protection Program to address immediate concerns and mitigate the impact of wildfire events in an operationally efficient, safe and cost-effective manner to satisfy the needs and expectations of government and customers.[30]

19. The Forestry Protection Program comprises three sub-programs: Previously Trimmed Tree Removal, FPA Maintenance, and Wildfire Mitigation.[31] Fortis stated that for the purposes of its business case in this proceeding, it has mapped the Forestry Protection Program sub-program activities into the following groupings: (i) Situational Awareness; (ii) Ignition Risk Quantification; and (iii) System Hardening.[32]

20. Fortis provided the following list of forestry protection activities within each business case grouping:[33]

27 Exhibit 29513-X0002, application, PDF page 24, paragraph 78.
28 Exhibit 29513-X0003 Appendix A, PDF page 9, paragraph 22.
29 Exhibit 29513-X0002, application, PDF page 27, paragraph 88. The FPA Agreement is between Fortis and the GOA pursuant to the *Forest and Prairie Protection Act*. The Forest Protection Area is defined in the *Forest Protection Area Regulation*, Alta Reg 149/1999.
30 Exhibit 29513-X0002, application, PDF page 6, paragraph 12.
31 Exhibit 29513-X0002, application, PDF pages 25-26, paragraph 83.
32 Exhibit 29513-X0004, Appendix B Forestry Protection, PDF page 9, paragraph 18.
33 Exhibit 29513-X0004, Appendix B Forestry Protection, PDF page 9, Table 1-2.

Table 2. Project and program to grouping mapping

Grouping	Projects/Programs
Situational awareness	Hydraulic Recloser Replacement[1] Early Fault Detection Installation [Note 1] Wildfire Forecasting and Modeling Dashboard Weather Station Installation Feeder Level SCADA Protection Integration Mechanical Sensor Installation
Ignition risk quantification	Geospatial Module Automated Equipment Cataloguing Automated Vegetation Cataloguing
System hardening	Expulsion-Type Fuse Replacement[1] Fire Wraps FPA Maintenance Program[1] Previously Trimmed Tree Removal Program[1]

Note 1: Previously approved in Decision 26615-D01-2022.

4 Discussion

4.1 The Type 1 capital tracker accounting test

21. The Type 1 capital tracker accounting test provides the basis for the quantitative assessment required under Criterion 1 (along with other, qualitative considerations) and Criterion 3.[34]

22. The Type 1 capital tracker accounting test is used to determine whether there is an overall, material shortfall of capital funding for a utility as a result of the forecast capital costs for a specific project for which the utility is seeking Type 1 capital tracker treatment. The accounting test compares the capital-related revenues provided under both the I-X mechanism and K-bar to the revenue requirement associated with the proposed Type 1 capital project.[35]

23. The design of the accounting test is intended to account for interplay between projects proposed for Type 1 capital tracker treatment and projects included in K-bar in order to reduce the possibility of overlapping funding or double-counting. Because the accounting test compares the revenues provided under the I-X mechanism and K-bar to the revenue requirement after incorporation of forecast costs for proposed projects for which the utility is requesting Type 1 funding, the Commission found that it addresses situations where a utility starts a new project during PBR3, but the new project eliminates the need for an existing project funded by K-bar. Additionally, the Type 1 capital tracker expanded accounting test addresses such an interplay, although on a blanket basis, by taking into account any PBR funding surpluses in other capital program categories that could be used towards any other capital program funding shortfalls prior to Type 1 funding being considered.[36]

24. With reference to Table 1 above, Fortis forecast its total Metering category (including the AMI Program) capital-related revenues funded by the I-X mechanism and K-bar to be $37.2 million in 2025, while the forecast revenue requirement, inclusive of Fortis's forecast

34 Decision 27388-D01-2023, PDF pages 69, 71, paragraphs 253, 268.
35 Decision 27388-D01-2023, PDF page 63, paragraph 223.
36 Decision 27388-D01-2023, PDF page 70, paragraph 258.

capital additions for the AMI Program, is $42.7 million.[37] By comparing these two amounts, Fortis calculated a forecast funding shortfall of $5.5 million for the AMI Program in 2025. Similarly, by comparing its total Forestry Protection Program capital-related revenues funded by the I-X mechanism and K-bar of $7.9 million to its forecast revenue requirement inclusive of Fortis's forecast capital additions for the Forestry Protection Program of $10.1 million, Fortis forecast a funding shortfall of $2.2 million for the Forestry Protection Program in 2025.

25. Any capital funding shortfall identified through the accounting test – that is, capital-related revenue requirement greater than the capital-related revenue provided by the general PBR funding envelope (the I-X mechanism and K-bar) – is assessed for materiality under Criterion 3. If the project meets all three eligibility criteria, and subject to the Commission's Module 2 assessment of the reasonableness of Fortis's 2025-2028 forecast Type 1 capital revenue requirement for the qualifying project, this material shortfall would be funded through a Type 1 capital tracker.[38]

26. After reviewing the results of the accounting tests that Fortis prepared with respect to the AMI Program and the Forestry Protection Program, the Commission is generally satisfied that Fortis has complied with the methodology approved in Decision 27388-D01-2023. However, Fortis's calculations incorporate certain inputs that were not previously tested and approved by the Commission, such as the depreciation rate used for the AMI Program and the capital adjustment allocations used for both programs.[39] These assumptions, especially the untested depreciation rates, may have a material impact on the results of the accounting test. However, consistent with the Commission's determinations that the scope of the present module, Module 1, is limited to assessing whether the programs satisfy the Type 1 capital criteria,[40] and considering its findings in Decision 26615-D01-2022 to accept Fortis's new depreciation rates on a placeholder basis for the 2023 rebasing and setting of going-in rates,[41] the Commission accepts these assumptions for the purposes of its assessment in this Module 1 decision. The Commission, therefore, accepts the results of the accounting tests provided by Fortis for the AMI and Forestry Protection programs for the purposes of its assessment in this decision of whether the AMI and Forestry Protection programs meet the Type 1 capital criteria. As noted above, should one or both programs meet the Type 1 capital criteria, the reasonableness of the forecast capital revenue requirement for these programs would be tested in Module 2.

4.2 Criterion 1 – The project must be extraordinary and not previously included in the distribution utility's rate base

4.2.1 How the Commission assesses whether a project meets Criterion 1

27. Criterion 1 consists of two conjunctive elements: (i) the project must be extraordinary; and (ii) the project must not be previously included in the distribution utility's rate base. Both

[37] Exhibit 29513-X0002, application, PDF page 25, Table 5-2.
[38] Decision 27388-D01-2023, PDF pages 70-71, paragraphs 256-259.
[39] Fortis reallocated the average K-bar adjustment amounts that had been previously established based on the 2018-2022 historical average, by taking the proration of the total of the 2024 forecast capital additions, allowance for funds used during construction and K-bar adjustments of each capital category using the Fortis capital forecast submitted in this Type 1 application. The calculations can be seen in Exhibit 29513-X0009, Appendix D, tabs 4.5 and 4.5.1.
[40] Exhibit 29513-X0019 AUC letter - Issues list and process schedule, PDF page 1, paragraph 2.
[41] Decision 26615-D01-2022, PDF page 40, paragraph 155.

elements must be met for a project to meet Criterion 1 and therefore be eligible for Type 1 capital tracker funding.

28. The determination of whether a proposed project is extraordinary and not previously included in the utility's rate base is fact-specific to the particular project and to the particular distribution utility. Therefore, the Commission assesses each project in the context of the project itself and the utility's past capital expenditures and current PBR3 plan.

29. Determining whether a proposed project is extraordinary for the purposes of a Type 1 capital tracker application entails the evaluation of both qualitative and quantitative characteristics. In Decision 27388-D01-2023, the Commission confirmed that these characteristics may be demonstrated through (i) a business case setting out qualitative characteristics such as uncertainty, magnitude, complexity or third-party requirements; and (ii) through the accounting test for quantitative characteristics such as whether the revenue requirement associated with the project will be adequately covered by the I-X mechanism and K-bar.[42]

30. In Decision 27388-D01-2023, the Commission rejected the multiple proposals from the distribution utilities that any project not funded by K-bar should be eligible for Type 1 capital tracker funding. The Commission explained that it was not persuaded to expand the criteria to provide additional funding for projects previously included in the distribution utility's rate base.[43] The Commission reiterated that the quantitative assessment alone through the accounting test – that is, the fact that a particular project may not be funded under the I-X mechanism and K-bar – does not automatically, in and of itself, qualify the project as extraordinary.[44]

31. Determining whether a proposed project is previously included in the distribution utility's rate base generally entails assessing the level of similarity between the proposed project and projects that are previously included in the utility's rate base. A proposed project that exhibits characteristics that are sufficiently dissimilar to a project or program that has previously been included in the utility's rate base could be considered to meet this element of Criterion 1.

32. The evaluation of each of the elements of Criterion 1 is also informed by the purpose and overall design of the Type 1 capital tracker mechanism within the context of the PBR3 plans. These were discussed in earlier sections of this decision, but it bears repeating here that the bar for a project or program to meet the Type 1 capital criteria, including Criterion 1, is necessarily and deliberately high. This is because, as explained in Section 2, the incentives of PBR are absent for Type 1 capital projects.

4.2.2 Positions of parties on the meaning of "extraordinary" and "not previously included in rate base"

33. In their respective submissions, parties set out their positions on the meaning of "extraordinary" and "not previously included in rate base."

34. Fortis argued that there are significant changes between PBR2 and PBR3 and that the Commission's interpretation of Type 1 criteria must evolve to account for the changes that have

42 Decision 27388-D01-2023, PDF page 69, paragraphs 252-253.
43 Decision 27388-D01-2023, PDF pages 65-66, paragraphs 235, 237.
44 Decision 27388-D01-2023, PDF page 66, paragraph 237.

been introduced.[45] Fortis stated that the Commission's intentional incorporation of the expanded accounting test in the PBR3 Type 1 capital criteria represents an important substantive change relative to the PBR2 mechanism and that the conceptualization of "extraordinariness" and "not previously included in rate base" has evolved beyond that in PBR2.[46]

35. In PBR2, the Commission adopted the following as the Type 1 capital tracker criteria:[47]

(i) The project must be of a type that is extraordinary and not previously included in the distribution utility's rate base.

(ii) The project must be required by a third party.

36. In PBR3, the Commission modified these criteria as set out in Section 2. Further, between PBR2 and PBR3 the Commission expanded the Type 1 capital tracker accounting test and imposed a higher materiality threshold.[48] The Commission expanded the accounting test in two ways. First, the PBR3 accounting test considers revenues provided to the utility under both the I-X mechanism and K-bar, instead of only revenues provided under the I-X mechanism as was the case in PBR2.[49] Second, the PBR3 accounting test compares the total revenue requirement of all the utility's capital projects so any capital funding surpluses would net against any shortfalls, following the assumptions consistent with the K-bar calculation, while the PBR2 accounting test calculated the difference between the revenue requirement supported by I-X and the actual revenue requirement on a project-by-project basis.[50]

37. Fortis argued that the expanded accounting test is a superior approach to the tests used previously in assessing whether Type 1 funding is required by providing an objective, data-driven measure of what is extraordinary.[51] Fortis further argued that the expanded accounting test is integral to the assessment of whether a project meets Criterion 1 in three ways: (i) as the objective measure for whether a proposed project is quantitatively extraordinary; (ii) as part of the subjective assessment of whether a proposed project is qualitatively extraordinary; and (iii) as an objective measure for determining whether a project was previously included in rate base.[52] With respect to the requirement that the project is "not previously included in rate base," Fortis argued that this requirement is only probative insofar as it addresses the adequacy of funding and that, in light of the adoption of the expanded accounting test, the "not previously included in rate base" requirement can only reasonably be understood to mean that the specific expenditures for the project are not fully funded by the PBR funding envelope.[53] Fortis further submitted that the expanded accounting test in PBR3 indicates a move from a purely qualitative

45 Transcript, Volume 1, page 82.
46 Exhibit 29513-X0034, Fortis argument, paragraph 17.
47 Decision 20414-D01-2016 (Errata): 2018-2022 Performance-Based Regulation Plans for Alberta Electric and Gas Distribution Utilities, Proceeding 20414, February 6, 2017, PDF page 62, paragraph 198.
48 Decision 27388-D01-2023, PDF page 69, paragraph 253. The Commission increased the materiality threshold in PBR3 from 4 basis points of the applicable distribution utility's return on equity to 10 basis points.
49 Decision 27388-D01-2023, PDF page 70, paragraph 257.
50 Decision 27388-D01-2023, PDF page 70, paragraph 257.
51 Exhibit 29513-X0034, Fortis argument, paragraph 11.
52 See Transcript, Volume 1, pages 86-96 and 154-156.
53 Transcript, Volume 1, pages 91-92; see also Exhibit 29513-X0034, Fortis argument, paragraph 17.

assessment of whether a project has previously been included in rate base to a more quantitative and objective approach.[54]

38. Converse to Fortis's position, the Consumers' Coalition of Alberta (CCA) argued that the accounting test is not part of the assessment of whether that criterion is met.[55] The CCA argued that when considering Type 1 capital tracker applications, there are essentially two types of tests: a qualitative or descriptive test of what constitutes a tracker, and a quantitative test. The qualitative or descriptive tests are the criteria, and the quantitative test is the accounting test.[56] Notwithstanding its description of the criteria as qualitative in nature, with respect to the requirement that the program is "not previously included in rate base," the CCA proposed an objective test – if a proposed project does not create a new capital category (or in other words, if it falls under an existing capital category), that project is previously included in rate base.[57] With respect to the accounting test, the CCA submitted that the impact of expanding the accounting test is not to increase projects that are eligible, but rather to bring more capital under the umbrella of a single envelope of funding.[58]

39. The UCA argued that extraordinariness has both qualitative and quantitative aspects, with the expanded accounting test being the measure to determine if a project is quantitatively extraordinary.[59] With respect to the expanded accounting test, the UCA argued that the test is not objective, but subjective as it relies on utility forecasts, which are a subjective assessment of what the utility believes a project will cost.[60] The UCA did not address the meaning of "not previously included in rate base."

40. The Commission has considered the parties' arguments on the meaning of "extraordinary" and "not previously included in rate base" and has determined that elements of both Fortis's and the CCA's arguments are inconsistent with Decision 27388-D01-2023.

41. It appears to the Commission that Fortis is relying primarily on the expanded accounting test to: (i) diminish the importance of other more qualitative aspects of extraordinariness; and (ii) to conflate the two conjunctive elements of Criterion 1 by suggesting that, if the quantitative aspect of extraordinariness as determined through the accounting test is met, the need to show that the project is not included in the utility's rate base is lessened. Both of these arguments are inconsistent with how the Commission assesses whether a project meets Criterion 1, as described in Section 4.2.1. To reiterate, the Commission's assessment of whether a project meets the elements of Criterion 1 involves both quantitative and qualitative considerations, and Decision 27388-D01-2023 did not prioritize one type of consideration over the other, no factor is determinative in and of itself, and the Commission considers the evidence before it and weighs the various factors in order to determine whether each of the elements in Criterion 1 has been met.

42. Fortis's submissions on the meaning of "not previously included in rate base" are further inconsistent with Decision 27388-D01-2023 because Fortis appears to rely on the expanded

54 Transcript, Volume 1, page 96.
55 See Exhibit 29513-X0032, CCA argument, PDF page 12, Section 5.
56 Transcript. Volume 1, page 11.
57 See Exhibit 29513-X0032, CCA argument, paragraphs 1, 4, 7, 14; Transcript, Volume 1, page 25.
58 Transcript, Volume 1, page 16.
59 See Exhibit 29513-X0033, UCA argument, paragraph 5; Transcript, Volume 1, pages 58-59.
60 Transcript, Volume 1, page 67.

accounting test to argue that inclusion of the same or similar types of programs in rate base, the second element of Criterion 1, should be changed in a way that the Commission expressly declined to do in Decision 27388-D01-2023. Specifically, the Commission rejected proposals to amend the Type 1 criteria to fund any project not included in K-bar and to supplement funding for major projects that were already funded by K-bar.[61]

43. The CCA's argument that the accounting test is not part of the assessment of whether Criterion 1 is met is also inconsistent with Decision 27388-D01-2023. As described in Section 4.2.1, the accounting test is used to determine quantitative extraordinariness for the purposes of assessing whether a project meets Criterion 1. Further, the CCA's argument that the determinative test for "not previously included in rate base" is whether the proposed project falls under an existing capital category is not entirely correct. The fact that a proposed project falls under an existing capital category is a factor to consider, but is not prima facie determinative. As set out in Section 4.2.1, the Commission assesses the level of similarity between the proposed project and projects that are previously included in the utility's rate base. Where the proposed project is identified as falling within an existing capital category, the Commission will assess the proposed project's similarity to the other projects within that capital category.

4.2.3 The AMI Program does not meet Criterion 1

44. In its application, Fortis submitted that the AMI Program is extraordinary because it is a "significant technological advancement"[62] and that it is not currently included in rate base because the project's costs are "significantly higher than those contemplated in the approved K-bar funding."[63] Fortis argued that the AMI Program is qualitatively and quantitatively extraordinary, as the increased scope and magnitude of program spending allowed the program to meet the requirements of Criterion 1. Specifically, Fortis indicated that the forecast capital expenses in excess of other PBR funding will not be reflected in its rate base during PBR3, and the level of increased forecast spending made the programs extraordinary.[64]

45. For the reasons below, the Commission is not persuaded by Fortis's arguments and finds that the AMI Program does not meet Criterion 1.

46. First, based on its evaluation of both the qualitative and quantitative characteristics of the AMI Program, the Commission finds that the AMI Program is not extraordinary. In reaching this determination, the Commission agrees with the UCA that the AMI Program only represents modifications and improvements to Fortis's existing work practices.[65] Meters and metering are an essential part of distribution utility operations. It follows that the replacement of electricity meters and the installation of associated data collection and processing systems using current technologies are also essential parts of distribution utility operations. The Commission finds that, notwithstanding that Fortis's proposed new metering assets may be more technologically advanced than the current assets, the AMI Program is essentially an asset life cycle replacement project. The Commission also finds that the AMI Program is the type of asset life cycle replacement project that the Commission expects (and that good utility business practices

61 Decision 27388-D01-2023, PDF page 68, paragraph 247, and PDF page 811, paragraph 30; see also PDF page 66, paragraph 237.
62 Exhibit 29513-X0003, Appendix A - Advanced Metering Infrastructure, paragraph 8.
63 Exhibit 29513-X0003, Appendix A - Advanced Metering Infrastructure, paragraph 9.
64 Exhibit 29513-X0034, Fortis argument, PDF page 11, paragraphs 26-27.
65 Exhibit 29513-X0033, UCA argument, paragraph 8.

dictate) will include the adoption of current, updated and cost-effective technologies in order to improve the utility's facilities and equipment. Accordingly, the Commission is not satisfied that the qualitative characteristics of the AMI Program (including the magnitude of the project and level of complexity) support the project being extraordinary.

47. The Commission is satisfied that the AMI Program's quantitative characteristics weigh in favour of the project being extraordinary because, as discussed in Section 4.4.2, Fortis's forecast costs associated with the AMI Program exceeds the Type 1 capital tracker mechanism materiality thresholds. However, the Commission finds that the qualitative characteristics do not support a finding of extraordinariness and outweigh the quantitative characteristic when evaluating whether the AMI Program meets this first element of Criterion 1 overall.

48. Second, for the following reasons the Commission finds that the AMI Program is previously included in Fortis's rate base.

49. Fortis installed the current AMI meters on its distribution system between 2008 and 2011 when Fortis replaced all of its conventional, manually read meters (the PLC AMI capital program).[66] While the technology may not be identical, the Commission finds that the AMI Program is substantially similar in nature to Fortis's past PLC AMI capital program that is previously included in Fortis's rate base. The Commission also rejects Fortis's argument that forecast capital expenses for the AMI Program in excess of other PBR funding sufficiently differentiates the AMI Program that is the subject of this application for Type 1 capital tracker treatment from the legacy PLC AMI capital program.

50. Further, and as discussed above, the AMI Program is in the nature of an asset life cycle replacement project. Asset life cycle replacement projects for metering systems are part of the normal course of a distribution utility's ongoing operations and the capital costs associated with the installation of meters and associated equipment, including where the new meters and associated equipment use new technology are precisely the type of costs that have previously been included in Fortis's rate base. These normal course metering-related capital costs, including depreciation and return on investment costs, are funded under the I-X mechanism and K-bar in Fortis's PBR3 plan.

51. Overall, the Commission is not persuaded by Fortis's arguments that the AMI Program exhibits characteristics that are sufficiently different from the PLC AMI capital program or past asset life cycle replacement projects for meters that are previously included in Fortis's rate base to warrant Type 1 capital tracker treatment.

52. Fortis has therefore not established that the AMI Program is extraordinary and not previously included in rate base and the Commission finds that this program has not met the requirements of Criterion 1.

4.2.4 The Forestry Protection Program does not meet Criterion 1

53. Fortis submitted that the Forestry Protection Program is extraordinary because it involves the implementation of advanced and innovative techniques, covers an extensive area, involves intricate planning and execution, and would require capital expenditures significantly

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[66] Proceeding 212, Fortis 2010-2011 Phase I/II Distribution Tariff Application, Exhibit 0012.00.FORTIS-212, 2009-06-16, sections 1-8 Filed.pdf, PDF page 127, Section 3.7.4.

higher than those contemplated in current PBR3 K-bar funding.[67] In support of its position, Fortis provided an overview of wildfires in Alberta, including the number of wildfires caused by powerlines in the Alberta FPA, the number of recorded fires in its service area from 2015 to 2023, as well as more general information regarding extreme weather events and the scale of wildfires in the province.[68]

54. Fortis argued that the Forestry Protection Program was qualitatively and quantitatively extraordinary. Fortis stated that the increased scope and magnitude of the Forestry Protection Program spending allowed it to meet the requirements of Criterion 1. Specifically, Fortis indicated that the forecast capital expenses in excess of other PBR funding will not be in its rate base during PBR3 and that the level of increased forecast spending made the programs extraordinary.[69] Fortis stated that approximately $86 million is not included in the rate base funded by I-X and K-bar for its Type 1 Forestry Protection Program during the PBR3 term.[70] Moreover, Fortis stated that regarding qualitative factors, "… not only is the scale of the operation extensive, employing significant resources and coordination to mitigate risk over vast areas, but it is also more proactive and data-driven than previous iterations, prioritizing areas with higher risk of wildfire."[71]

55. For the reasons below, the Commission is not persuaded by Fortis's arguments and finds that the Forestry Protection Program does not meet Criterion 1.

56. First, based on its evaluation of both the qualitative and quantitative characteristics of the Forestry Protection Program, the Commission finds that the Forestry Protection Program is not extraordinary.

57. In reaching this determination, the Commission agrees with the UCA that the Forestry Protection Program only represents modifications and improvements to Fortis's existing work practices.[72] While the Commission acknowledges the significant impacts that wildfires cause in the province generally, Fortis has not sufficiently particularized its position with supporting evidence to demonstrate that the Forestry Protection Program is extraordinary. The evidence provided by Fortis indicates that the number of fires recorded in Fortis's service area has not increased significantly from 2015-2023, but rather remained relatively static, apart from a single-year spike in 2021. In this regard, the CCA argued that the evidence of recorded fires "certainly do[es] not indicate that a program of 'extraordinary nature, magnitude, and complexity' is necessary."[73] The Commission agrees. The evidence shows that the number of fires, which Fortis's Forestry Protection Program is designed to mitigate, has remained relatively stable. As is further discussed below, Fortis has for some time had projects and programs intended to address forest protection and wildfire mitigation in its service area. While Fortis's Forest Protection Program is stated to include advanced techniques and innovative approaches to manage wildfire risks not previously available to Fortis, the Commission expects that utilities will prudently evolve and modify current forest protection and wildfire mitigation practices and to cost-effectively adopt advanced technologies and best practices as and when

67 Exhibit 29513-X0004, Appendix B - Forestry Protection, paragraph 9.
68 Exhibit 29513-X0004, Appendix B - Forestry Protection, PDF pages 12-15, Section 1.4.
69 Exhibit 29513-X0034, Fortis argument, paragraphs 19-20.
70 Exhibit 29513-X0034, Fortis argument, paragraph 20.
71 Exhibit 29513-X0034, Fortis argument, paragraph 19.
72 Exhibit 29513-X0033, UCA argument, paragraph 8.
73 Exhibit 29513-X0032, CCA argument, paragraph 38.

they are identified and become available. The Commission is therefore not persuaded by the evidence that this program is of a nature, magnitude or complexity that makes it extraordinary. It is consistent with good utility practice.

58. The Commission is satisfied that the Forestry Protection Program's quantitative characteristics weigh in favour of the project being extraordinary because, as discussed in Section 4.4.3, Fortis's forecast costs associated with the Forestry Protection Program exceeds the Type 1 capital tracker mechanism materiality thresholds. However, the Commission finds that the qualitative characteristics that do not support a finding of extraordinariness outweigh the quantitative characteristics when evaluating whether the Forestry Protection Program meets this first element of Criterion 1 overall.

59. Second, for the following reasons the Commission also finds that the Forestry Protection Program is previously included in Fortis's rate base. Specifically, the existing Forestry Protection capital program in Fortis's PBR3 plan are similar in nature to the activities contemplated in the Forestry Protection Program.

60. Fortis has been performing work and capitalizing the costs associated with managing the risk of Fortis's assets and business operations causing wildfires for many years. Since at least 2007 Fortis has been capitalizing FPA Maintenance costs, with some of the maintenance being the subject of a Wildfire Control Agreement with the GOA,[74] and since at least 2015, the subject of the FPA Agreement.[75] As part of its 2023 rebasing, Fortis included a Forestry Protection capital program. Three of the applied-for projects within that program were approved by the Commission:[76] Previously Trimmed Tree Removal, FPA Maintenance, and Wildfire Mitigation (the 2023 Forestry Protection capital program).[77] The Commission disallowed $9.8 million associated with Fortis's then proposed High-Risk Fire Areas Rebuild sub-project under Wildfire Mitigation).[78]

61. In this proceeding, in its business case for the Forestry Protection Program, Fortis explained that the programs and projects previously classified under the Previously Trimmed Tree Removal Program, FPA Maintenance Program, and the Wildfire Mitigation Program will be mapped into the following groupings: (i) Situational Awareness, (ii) Ignition Risk Quantification; and (iii) System Hardening.[79] However, in the main body of Fortis's Type 1 application, Fortis stated that the Forestry Protection Program comprises three sub-programs: (i) Previously Trimmed Tree Removal; (ii) FPA Maintenance; and (iii) Wildfire Mitigation,[80] which is different than how the Forestry Protection sub-programs were categorized in Fortis's supporting business case to the application.

62. Notwithstanding the inconsistency around the names of the sub-programs, the Commission is satisfied that the nature of the activities in the proposed Forestry Protection Program have not significantly changed from the 2023 Forestry Protection capital program. Therefore, while the exact forestry protection measures proposed to be undertaken as part of the

74 Proceeding 212, Exhibit 0012.00.Fortis-212, Fortis 2010-2011 tariff application, PDF page 228.
75 Exhibit 29513-X0026, FAI-AUC-2024NOV29-003f Attachment.
76 Decision 26615-D01-2022, PDF page 58, paragraph 239, and PDF page 60, Section 8.2.3.
77 Proceeding 26615, Exhibit 26615-X0031, Fortis cost-of-service application, PDF page 123, Section 5.7.6.
78 Decision 26615-D01-2022, PDF page 64, paragraph 265.
79 Exhibit 29513-X0004, Appendix B, PDF page 9, paragraph 18.
80 Exhibit 29513-X0002, application, PDF page 26, paragraph 83.

Forest Protection program may or may not be identical to those previously in rate base, which is difficult to discern as Fortis has created new categories for its forestry protection activities in its business case, the Commission finds that the Forestry Protection Program consists of initiatives that are substantially similar in nature to those in Fortis's existing Forestry Protection capital program that is was included in Fortis's rate base. In particular, the capital costs of Fortis's existing Forestry Protection capital program are captured in Fortis's PBR3 plan in two ways: (i) as the costs of the 2023 Forestry Protection capital program were included in Fortis's rebasing, they are reflected in the funding from the I-X mechanism; and (ii) as Fortis incurred actual capital additions related to forestry protection between 2018 and 2022, these amounts are reflected in funding from K-bar. For 2024, $7 million of Fortis's funding provided by the I-X mechanism and K-bar was the result of these forestry protection capital costs, including depreciation and return on investment.[81] The Commission therefore finds that capital costs associated with the Forestry Protection capital program that are the same or substantially similar have been previously included in Fortis's rate base.

63. The Commission also rejects Fortis's argument that forecast capital expenses for the Forestry Protection Program in excess of other PBR funding sufficiently differentiates the Forestry Protection Program from the existing 2023 Forestry Protection capital program. As set out in Section 4.2.2 above, the Commission has rejected the notion that the results of the accounting test are sufficient to differentiate projects previously included in rate base from new projects for which Fortis is seeking Type 1 capital tracker treatment.

64. Overall, the Commission is not persuaded by Fortis's argument that the Forestry Protection Program exhibits characteristics that are sufficiently different from the existing capital projects that were previously included in Fortis's rate base.

65. Fortis has therefore not established that the Forestry Protection Program is extraordinary and not previously included in rate base, and the Commission finds that this program has not met the requirements of Criterion 1.

4.3 Criterion 2 – The project must be required by a third party, or otherwise directly caused by applicable law related to net-zero objectives

4.3.1 How the Commission assesses whether a project meets Criterion 2

66. Criterion 2 consists of two disjunctive elements: (i) the project must be required by a third party; or (ii) the project must otherwise be directly caused by applicable law related to net-zero objectives.

67. Regarding the third-party requirement of Criterion 2, in Decision 27388-D01-2023, the Commission directed that the distribution utilities must clearly address the following two questions in their applications for Type 1 capital tracker funding: (i) what entity is requiring the project to be completed?; and (ii) is that entity a third party?[82] Implied in the formulation of the first question is the preliminary issue of whether there is a requirement for the proposed project to be completed. The Commission also explained that projects that may meet the third-party requirement of Criterion 2 might include capital additions required by new government programs not previously experienced but would not include types of expenditures required by

81 Exhibit 29513-X0010, Appendix E, Schedule 3, Line 5, columns U+V $6.05 million (from the I-X mechanism) + $0.89 million (from K-bar).

82 Decision 27388-D01-2023, PDF page 71, paragraph 261.

governments in the normal course of expectations, such as moves required to accommodate road or interchange reconfigurations.[83]

68. Regarding the Criterion 2 requirement that the project be directly caused by applicable law related to net-zero objectives, in Decision 27388-D01-2023, the Commission stated that it will assess whether there is a sufficiently direct chain of causation between the relevant legal obligation and the relevant project. The Commission also provided guidance about the types of evidence that may establish a sufficient degree of connection between the project and the applicable law for the purposes of Criterion 2: (i) evidence that demonstrates the connection to the specific project in a reasonable level of detail on an itemized basis; and (ii) evidence that it is necessary to incur capital additions for the project during the PBR3 term.[84]

69. While this guidance was provided with respect to the Criterion 2 requirement that the project be directly caused by applicable law related to net-zero objectives, the Commission is of the view that it is also applicable to the determination of whether a third-party entity is requiring the proposed project to be completed. Specifically, in evaluating whether a purported third-party entity's decisions or actions created a requirement for the proposed project to be completed, the Commission will assess whether there is a sufficiently direct link between the decisions or actions of the purported third party and the specific elements of the relevant project.

4.3.2 The AMI Program does not meet Criterion 2

70. Fortis's distribution system currently uses a Power Line Carrier (PLC) AMI system manufactured by Landis+Gyr. The PLC AMI meters send meter data over the same infrastructure that provides power for Fortis's customers. Fortis submitted that the AMI Program is required by a third party because Fortis's current AMI vendor discontinued the production of the PLC AMI meters in 2024 and will end operational support in 2029. The decisions to discontinue the production of PLC AMI meters and to end support for Fortis's existing AMI system were made by the vendor.[85] Fortis argued that these decisions by the vendor imposed a direct and unavoidable obligation on Fortis to continue to provide meter reading and billing services for its customers.[86] Fortis explained that this is because, as the PLC AMI technology is proprietary, there is no alternative supply source for meters, network equipment or ongoing support.[87]

71. Fortis did not allege that the AMI Program is directly caused by applicable law related to net-zero objectives, nor is there any obvious causal connection based on the evidence; therefore, the Commission will focus on whether the AMI Program meets the third-party requirement of Criterion 2.

72. For the reasons that follow, the Commission finds that the AMI Program is not required by a third party and therefore does not meet Criterion 2.

83 Decision 27388-D01-2023, PDF page 71, paragraph 260, quoting from Decision 20414-D01-2016 (Errata), PDF page 62, paragraph 197.
84 Decision 27388-D01-2023, PDF page 71, paragraph 262.
85 Exhibit 29513-X0024, FAI-AUC-2024NOV29-007(a) and (c).
86 Exhibit 29513-X0034, Fortis argument, paragraph 37.
87 Exhibit 29513-X0002, application, paragraph 82, and Exhibit 29513-X0003, Appendix A - Advanced Metering Infrastructure, paragraph 13.

73. Between late 2020, when Fortis was given notice of Landis+Gyr’s decisions to discontinue the production of PLC AMI meters[88] and to end support for Fortis’s existing AMI system, and 2029 when the existing meters will be obsolete, Fortis is free to make business decisions concerning the timing and required replacement of its current PLC AMI meters, including the vendor, technology, and pace of installation. On this basis, the Commission finds that Fortis has not established a sufficient connection between Landis+Gyr’s decisions and the specifics of the proposed AMI Program. This is determinative of the issue of whether the AMI Program meets Criterion 2. The Commission finds that it does not.

74. The Commission also finds that the main driver behind the need for Fortis to replace its existing PLC AMI meters is the expected useful lifespan of the meters, not Landis+Gyr’s decisions to discontinue the production of PLC AMI meters in 2024 and to end support for Fortis’s existing AMI system in 2029. This is because, as discussed in Section 4.2.2, the AMI Program is essentially an asset life cycle replacement project. The PLC AMI meters that Fortis installed between 2008 and 2011 will be fully depreciated at the end of their expected useful lives between 2026 and 2029.[89] Further, given the timeframe associated with Fortis’s existing PLC AMI meters and the timeline within which Fortis is required to replace them, the Commission finds that the requirement to replace the existing PLC AMI meters due to obsolescence arises in the context of Fortis’s normal course of business as a distribution utility. During the normal course of business, utilities make business decisions to manage their assets, including when vendors change products or to manage the obsolescence of products offered by current vendors. Utilities may decide to replace existing assets for a variety of reasons including reasons related to age, price, quality and technology advancements.

75. Other than the obvious fact that Fortis will no longer be able to purchase new PLC AMI meters from its current vendor, in the specific context of this proceeding, at most, Landis+Gyr’s decisions may affect Fortis’s decisions with respect to the timing for meter replacement and which company Fortis chooses as its meter vendor. This determination is principally based on the fact that, as the vendor will continue to support Fortis’s current AMI system until 2029, Fortis has until then to select and install new AMI meters to replace the old meters, which, in 2029, will have been in service for approximately 18-21 years. As the currently approved depreciable life of the legacy PLC AMI meters is 18 years, this means that the meters being replaced will be at the end of or have exceeded their expected useful life span and will be fully depreciated.

76. Fortis has therefore not established that its AMI Program is required by a third party, and the Commission finds that this program has not met the requirements of Criterion 2.

4.3.3 The Forestry Protection Program does not meet Criterion 2

77. Fortis submitted that the Forestry Protection Program is required by a third party because the project is required for Fortis to fulfil obligations created through legislation and government direction. Fortis explained that the *Electric Utilities Act* imposes obligations on distribution system operators to operate and maintain distribution systems in a safe and reliable manner, and to provide and maintain service that is safe, adequate and proper. Fortis also explained that the Government of Alberta (GOA) has required it to enter into the FPA

88 Proceeding 26615, Exhibit 26615-X0036, Appendix D, PDF page 7, Section 2.2.2.

89 Based on the fact that the currently approved depreciation rate for the PLC AMI digital meters is 8.3 per cent with an 18-year service life.

Agreement, pursuant to the *Forest and Prairie Protection Act* and, that under the FPA Agreement, it is obligated to effectively manage the wildfire risk associated with the operation of distribution system infrastructure in the FPA.[90]

78. Fortis also identified that the following third parties require the execution of the Forestry Protection Program:[91]

- the GOA by virtue of the obligations set out in the *Electric Utilities Act* and the *Forest and Prairie Protection Act*;
- the Minister of Environment and Sustainable Resource Development, as the contracting party in the FPA Agreement; and
- the municipalities and customers served by Fortis by virtue of their needs and expectations regarding wildfire prevention and response, which are driven by public safety concerns and the legal obligations imposed on Fortis by the *Electric Utilities Act.*

79. Fortis also indicated that its investors, lenders, credit rating agencies and insurers are increasingly placing demands on Fortis to demonstrate due diligence in wildfire risk management.[92] Fortis did concede, however, that, "… to date, no investors, lenders, or insurance companies have expressly demanded that FortisAlberta expand its Forestry Protection Program as a prerequisite for securing investment, debt, or insurance coverage, nor have they directly linked such requirements to the avoidance of higher interest or insurance costs."[93]

80. Fortis did not allege that the Forestry Protection Program is directly caused by applicable law related to net-zero objectives, nor is there any obvious causal connection based on the evidence. Therefore, the Commission will again focus on whether the Forestry Protection Program meets the third-party requirement of Criterion 2.

81. For the reasons that follow, the Commission finds that the Forestry Protection Program is not required by a third party and therefore does not meet Criterion 2.

82. The Commission agrees that the *Electric Utilities Act* imposes statutory obligations on Fortis. Fortis is the owner of both an electric distribution system and of an electric utility. Section 105 of the act sets out the duties of owners of electric distribution systems, and Section 127 sets out the obligations of owners of electric utilities. The specific duties and obligations that Fortis submitted require it to complete the Forestry Protection Program are to operate and maintain its distribution system in a safe and reliable manner (Section 105(1)(c) of the act) and to provide and maintain service that is safe, adequate, and proper (Section 127(a) of the act).[94] Both of these provisions are extremely broad and neither prescribes any specific actions that must be taken to fulfil the relevant duties and obligations. Therefore, the Commission finds that Fortis has not established a sufficient connection between its statutory obligations under the *Electric Utilities Act* and the specifics of the proposed Forestry Protection Program.

90 Exhibit 29513-X0004, Appendix B - Forestry Protection, paragraph 13.
91 Exhibit 29513-X0024, FAI-AUC-2024NOV29-003(g).
92 Exhibit 29513-X0002, application, paragraph 89.
93 Exhibit 29513-X0024, FAI-AUC-2024NOV29-003(h).
94 Exhibit 29513-X0002, application, paragraph 88.

83. Further, the Commission finds that Fortis's argument that the general duties and obligations set out in sections 105(1) and 127(a) of the *Electric Utilities Act* creates third-party requirements to complete specific capital projects would result in a perverse outcome that is inconsistent with Decision 27388-D01-2023. This is because the general duties and obligations set out in sections 105(1) and 127(a) are fundamental and apply to all aspects of a distribution utility's operations. Following Fortis's argument to its logical conclusion would result in any work required to operate and maintain a distribution system or to provide and maintain electric distribution service is "required by a third party." This would render Criterion 2 moot.

84. With respect to the *Forest and Prairie Protection Act*, the UCA argued, and Fortis conceded in reply argument, that Fortis was not statutorily required to enter into the FPA Agreement.[95] The Commission agrees and is therefore not persuaded that the *Forest and Prairie Protection Act* imposes any requirement for Fortis to complete the Forestry Protection Program, as argued by Fortis.

85. With respect to the FPA Agreement itself, the Commission acknowledges that notwithstanding that it is voluntary, once executed, it is a binding agreement between Fortis and the Minister of Environment and Sustainable Resource Development.[96] The Commission also acknowledges that the FPA Agreement requires Fortis to submit and adhere to annual wildfire control plans.[97] An annual wildfire control plan must detail the proposed programs concerning the removal of potentially hazardous trees and other vegetation management, and maintenance of electric distribution lines conducted specifically for the prevention of wildfires for the year and prioritizing areas of risk. Each plan is subject to input from wildfire prevention officers in terms of values at risk, priority community zones, fire behaviour potential and other priorities within the proposed work area. The Minister also reviews each plan. The Minister may accept a proposed plan or advise of the need for revisions. Any revisions to the plan must be to the mutual satisfaction of both Fortis and the Minister.[98]

86. Aside from the fact that Fortis is not required to enter into an FPA Agreement, the following factors are key to the Commission's assessment of whether the FPA Agreement requires Fortis to complete the Forestry Protection Program: (i) that Fortis develops each plan; (ii) input from wildfire prevention officers is limited to factors related to the prioritization of the proposed work; (iii) Fortis is not required to incorporate input from the wildfire prevention officers; and (iv) the Minister may advise of the need for revisions, but any revisions must be agreed upon by Fortis. On that basis, the Commission finds that while the FPA Agreement requires Fortis to adhere to annual wildfire control plans, Fortis is the main driver behind the specific operational items in the plans. Therefore, Fortis itself has determined the specific operational requirements in its annual wildfire control plans, and these requirements are neither

95 See Exhibit 29513-X0033, UCA argument, paragraph 33; Transcript, Volume 1, page 116, lines 9-14.

96 See Transcript, Volume 1, page 116, lines 9-14.

97 The Commission notes that under the FPA Agreement, the difference in Fortis's potential liability to fund the Crown's wildfire suppression costs is $100,000 if Fortis has an approved wildfire control plan in place and has completed certain activities in a specified timeframe, as compared to a maximum of $200,000 if Fortis does not have a plan in place or has not completed certain activities in a specified timeframe. This potential liability only arises where a Fortis power line causes the wildfire: Exhibit 29513-X0026, FAI-AUC-2024NOV29-003f Attachment, FPA Agreement, Article 7(i) and (ii), PDF page 8.

98 Exhibit 29513-X0016, PDF pages 4-5, Article 3.

specified in the FPA Agreement nor required by the GOA. In this regard, the Commission agrees with the following statement by the UCA:[99]

> But in any event, the FPA Agreement neither requires, nor involves any commitment by Fortis, to take the specific actions set out in the FP Program. Rather, and as Fortis admits in its IRs [information requests], the company's primary obligation under the FPA Agreement is simply to "take steps to minimize the occurrence and severity of wildfires in Forest Protection Areas where the Company operates and maintains its electrical distribution facilities."[100]

87. Therefore, having reviewed the terms of the FPA Agreement and the evidence and positions of all the parties, the Commission finds that Fortis has not established a sufficient third-party criterion between its obligations under its FPA Agreement and the specifics of the proposed Forestry Protection Program for which it now seeks Type 1 capital tracker treatment.

88. Last, the Commission is not persuaded that the expectations of municipalities, customers, investors, lenders, credit rating agencies and insurers, as described by Fortis, amount to a third-party requirement for the completion of the Forestry Protection Program. Fortis has not explained how the expectations of these parties create any specific requirement for Fortis. Further, the Commission finds that the expectations are general in nature and are not sufficiently connected to the specifics of the proposed Forestry Protection Program. Instead, the Commission agrees with the UCA that municipalities, customers, investors, lenders, credit rating agencies and insurers "simply expect Fortis to meet its general commitments with respect to wildfire mitigation, without dictating how Fortis chooses to do so."[101]

89. Fortis has therefore not established that its Forestry Protection Program is required by a third party, and the Commission finds that this program has not met the requirements of Criterion 2.

4.4 Criterion 3 – The project cost must have a material effect on the distribution utility

4.4.1 How the Commission assesses whether a project meets Criterion 3

90. Where the capital revenue requirement funding shortfall between the approved funding provided by the I-X mechanism and K-bar and the Type 1 spending forecast exceeds the established materiality threshold for the Type 1 capital tracker mechanism, the project meets the requirement of its cost having a material effect on the distribution utility.[102] In Decision 27388-D01-2023, the Commission explained that the Type 1 capital tracker mechanism materiality threshold is intended to (i) ensure that only projects materially underfunded by the I-X mechanism are considered for Type 1 funding, which ensures that the majority of utility funding is provided through the I-X mechanism and K-bar, and is therefore subject to the superior cost incentives of PBR; and (ii) avoid initiating proceedings for proposed projects with costs that are, for the most part, funded by the I-X mechanism and K-bar, therefore decreasing regulatory burden.[103]

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99 Exhibit 29513-X0033, UCA argument, PDF page 14, paragraph 36.
100 Exhibit 29513-X0024, Response to FAI-AUC-2024NOV29-003(d).
101 Exhibit 29513-X0033, UCA argument, paragraph 27.
102 Decision 27388-D01-2023, PDF page 70, paragraph 259.
103 Decision 27388-D01-2023, PDF page 72, paragraph 267.

91. The Commission emphasizes that meeting the materially threshold for purposes of this Module 1 does not mean all forecast costs would later be determined to be reasonable in Module 2, in the event that the program met all three Type 1 capital criteria.

92. For PBR3, the materiality threshold for the Type 1 capital tracker mechanism is 10 basis points of the applicable distribution utility's return on equity, calculated annually.[104] The materiality threshold is applied to each individual capital category (at the grouping level approved in the rebasing decisions) proposed for Type 1 capital tracker treatment in order to determine whether the funding shortfall associated with that capital category, as calculated by the accounting test, exceeds the materiality threshold.[105]

4.4.2 Both programs meet Criterion 3

93. The following table shows Fortis's materiality threshold calculated for each year of the PBR3 term:

Table 3. Type 1 capital tracker materiality thresholds[106]

Description	2023 Cost of service		Materiality threshold parameter	Materiality threshold going-in rates ($ million)	Forecast I-X 2024-2028	Materiality threshold ($ million)				
	Ratio	Mid-year rate base ($ million)				2024	2025	2026	2027	2028
Long-term debt	63%	2,587.7								
Common equity	37%	1,519.8	0.10%	1.5	3.10%	1.6	1.6	1.7	1.7	1.8
	100%	**4,107.5**								

*Minor differences due to rounding.

94. The Commission has reviewed the calculations and is satisfied that Fortis calculated the Type 1 capital tracker mechanism materiality threshold correctly for each of 2024 to 2028.

95. Fortis calculated the following annual shortfalls, on a capital category basis, for each of its proposed AMI and Forestry Protection programs:

Table 4. Annual Metering and Forestry Protection capital category shortfalls[107]

	2024	2025	2026	2027	2028
	($ million)				
Criterion 3 materiality threshold	–	1.6	1.7	1.7	1.8
Metering shortfall	–	5.5	12.6	20.8	28.9
Forestry Protection shortfall	–	2.2	4.8	7.0	9.5

*Minor variances due to rounding.

[104] Decision 27388-D01-2023, PDF page 72, paragraph 268.
[105] Decision 27388-D01-2023, PDF page 72, paragraph 268.
[106] Exhibit 29513-X0002, application, paragraph 67.
[107] Exhibit 29513-X0002, application, PDF page 16, Table 3-1 (shortfalls), and PDF page 22, Table 3-4 (materiality threshold).

96. Per the table above, in each year, the metering capital category (which the AMI Program falls under) and the forestry protection capital category (which the Forestry Protection Program falls under) each have a shortfall higher than the materiality test threshold for that year. On this basis, Fortis submitted that both programs meet Criterion 3.[108]

97. In Section 4.1, the Commission accepted the results of the accounting test provided by Fortis for the AMI Program and Forestry Protection Program for the purposes of its assessment in this Module 1 decision. The Commission therefore accepts Fortis's submission that the AMI Program and the Forestry Protection Program each meet the Type 1 capital tracker mechanism materiality threshold for 2025-2028 and accordingly finds that these programs meet Criterion 3.

5 Conclusion

98. In the above sections, the Commission found that the AMI Program (i) is not extraordinary and was previously included in Fortis's rate base; (ii) is not required by a third party, or otherwise directly caused by applicable law related to net-zero objectives; and (iii) its forecast cost has a material impact on Fortis. The Commission found that the Forestry Protection Program (i) is not extraordinary and was previously included in Fortis's rate base; (ii) is not required by a third party, or otherwise directly caused by applicable law related to net-zero objectives; and (iii) its forecast cost has a material impact on Fortis. Therefore, the Commission finds that neither the AMI Program nor the Forestry Protection Program satisfies all of the eligibility criteria for Type 1 capital tracker treatment. Accordingly, Fortis's application for Type 1 capital tracker funding is denied, and the Commission will not proceed to Module 2 to assess the reasonableness of the 2025-2028 forecast capital revenue requirement for the two programs.

99. The result of this decision is that Fortis will not receive Type 1 capital tracker funding for the AMI Program or the Forestry Protection Program. However, this does not mean that the approved PBR3 plan does not provide Fortis with any funding to conduct these activities. The revenues Fortis obtains through going-in rates and K-bar include funds associated with its historical expenditures for activities included in the AMI and Forestry Protection programs. Further, the Commission expects Fortis to continue to manage its business under the overall envelope of funding provided by its PBR3 plan (the I-X mechanism and K-bar), including by prioritizing its capital expenditures as it sees fit and allocating its revenue to meet its business needs. Overall, the Commission continues to hold the view expressed in Decision 27388-D01-2023 that the I-X mechanism, combined with K-bar based on five years of each utility's actual expenditures in PBR2, along with other elements of the PBR3 plans, would provide each distribution utility, including Fortis, with a reasonable opportunity to recover prudent costs and earn the approved return in PBR3.[109]

[108] Exhibit 29513-X0002, application, PDF pages 16-17, paragraph 43.
[109] See for example Decision 27388-D01-2023, PDF page 60, paragraph 211.

6 Order

100. It is hereby ordered that:

(1) FortisAlberta Inc.’s application for Type 1 capital tracker treatment for the Advanced Metering Infrastructure Program and the Forestry Protection Program is denied.

Dated on April 25, 2025.

Alberta Utilities Commission

(original signed by)

Kristi Sebalj
Vice-Chair

(original signed by)

Michael Arthur
Commission Member

(original signed by)

Dennis Frehlich
Acting Commission Member

Appendix 1 – Proceeding participants

Name of organization (abbreviation) Company name of counsel or representative
FortisAlberta Inc. (Fortis) Fasken Martineau DuMoulin LLP
Consumers' Coalition of Alberta (CCA)
Office of the Utilities Consumer Advocate (UCA) Brownlee LLP

Alberta Utilities Commission Commission panel K. Sebalj, Vice-Chair M. Arthur, Commission Member D. Frehlich, Acting Commission Member Commission staff A. Marshall (Commission counsel) M. Parent (Commission counsel) C. Robertshaw A. Spurrell C. Young