



**FortisAlberta Inc.
Type 1 Capital Tracker Application**

Costs Award

May 1, 2025

Alberta Utilities Commission

Decision 29862-D01-2025

FortisAlberta Inc.

Type 1 Capital Tracker Application

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Proceeding 29862

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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

The Commission may, no later than 60 days from the date of this decision and without notice, correct typographical, spelling and calculation errors and other similar types of errors and post the corrected decision on its website.

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1 Introduction

1. In this decision, the Alberta Utilities Commission considers an application by the Consumers' Coalition of Alberta (CCA) for an award of costs for its participation in Proceeding 29513¹ (the original proceeding). For the reasons below, the Commission approves \$73,533.40 in costs for the CCA.

2. The original proceeding was convened by the Commission to consider an application from FortisAlberta Inc. for approval of incremental funding by way of Type 1 capital tracker treatment for two capital programs. The March 1, 2024 version of Rule 022: *Rules on Costs in Utility Rates Proceedings*, applies to the costs of participation in the original proceeding. The CCA submitted its costs claim within the 30-day timeline permitted by the rule and the Commission issued notice of the costs application.² There were no requests for permission to file comments on the costs application and the record for this costs proceeding closed on March 15, 2025, the date it was determined that no information requests were required.

2 Consumers' Coalition of Alberta's claim

3. The CCA is a coalition of the Alberta Consumers' Association and the Alberta Council on Aging and, as a collective, is primarily concerned with the tariffs, rates and charges of the various public utilities operating in Alberta and regulated by the Commission. The CCA pursued the following issues in the original proceeding:

- category levels of Fortis's capital programs and how they are funded
- the uniqueness of the applied for programs
- the need for supplementary funding if a surplus in a capital category exists
- the difference in capabilities of the proposed AMI program as compared to Fortis's legacy AMI meters
- the relevance of using five years instead of four years to calculate PBR3 K-bar funding
- how the applied for programs are reflected in historical rate base

¹ Proceeding 29513, FortisAlberta Type 1 Capital Tracker Application.

² Exhibit 29862-X0006, AUC – Notice of costs application; and AUC – Notice of costs application, filed in Proceeding 29513 on February 26, 2025.

- Fortis's earnings above the approved rates and their relationship to Fortis's need for Type 1 funding
- Fortis's management of wildfire risk and correspondence and agreements made between Fortis and the Alberta Government related to wildfire mitigation
- accounting changes for Type 1 capital adjustments
- Fortis's major projects funding supplement proposal in PBR3
- the history of accounting tests, and the revenue requirement impact of wildfire-related projects from 2023 to 2028

4. The CCA is eligible to recover costs in accordance with Section 21 of the *Alberta Utilities Commission Act* and Section 5(1) of Rule 022.

5. The following is a breakdown of the costs claimed by the CCA:

Claimant	Hours			Fees	Disbursements	GST	Total
	Preparation	Attendance	Argument				
CCA							
Wachowich & Co. LLP	33.85	5.75	7.50	\$22,372.50	\$1,856.50	\$1,211.45	\$25,440.45
Regulatory Services Inc.	46.10	7.25	23.60	\$28,471.50	\$0.00	\$1,423.58	\$29,895.08
Bema Enterprises Ltd.	74.56	9.39	44.19	\$34,662.60	\$0.00	\$1,733.13	\$36,395.73
Total	154.51	22.39	75.29	\$85,506.60	\$1,856.50	\$4,368.16	\$91,731.26

6. The Commission finds that the CCA generally acted responsibly in the original proceeding and contributed to the Commission's understanding of the relevant issues. The Commission is also satisfied that the costs claimed are consistent with the scale of costs in Appendix A of Rule 022.

7. The Commission finds that the costs claimed for Wachowich & Co. LLP and Regulatory Services Inc. are reasonable and approves those costs in full. Accordingly, the Commission approves the CCA's claim for: legal fees in the amount of \$22,372.50, a disbursement for Real-time transcript services of \$1,856.50 and GST of \$1,211.45 for a total of \$25,440.45; and consulting fees for Regulatory Services in the amount of \$28,471.50 and GST of \$1,423.58 for a total of \$29,895.08.

8. However, the Commission is unable to approve the full amount of the costs claimed in respect of the services performed by Bema Enterprises Ltd. for the reasons below. While the Commission finds that the services performed by Bema Enterprises were generally directly and necessarily related to the CCA's participation in the original proceeding, it finds that the fees claimed for these services were excessive.

9. In the original proceeding, the Commission bifurcated its consideration of Fortis's application into two modules. The scope of Module 1 was to determine whether the criteria

established in Decision 27388-D01-2023³ for Type 1 capital tracker treatment were met. In the original decision⁴ the Commission found that neither of the programs in Fortis's application met the Type 1 capital criteria. If the Commission had determined that one or both of the programs met the Type 1 capital criteria, it would have proceeded to Module 2 where it would have assessed the reasonableness of Fortis's forecast Type 1 capital revenue requirement for those programs.⁵ Within the limited scope of Module 1, to the extent that the services provided by Bema Enterprises contributed to a better understanding of the issues, the Commission finds that the costs claimed by the CCA for those services are not proportionate to the value that the Commission derived from Bema Enterprises' participation in the original proceeding.

10. The Commission considers many of the hours claimed by Bema Enterprises to be duplicative. For example, a considerable number of hours for consulting or analyst services provided by Dan Levson, Calvin Baynes, and Christine Nash appear to be for internal discussions between Bema Enterprises' consultants or analysts. While it is not possible to determine exact numbers due to block billing entries on their time sheets, the Commission estimates that approximately 78 per cent of the total consultant and analyst hours for preparation and argument are, in whole or in part, for internal discussions. Further, given that there was significant overlap in D. Levson's and C. Baynes's expertise and areas of responsibility, the Commission considers the number of hours spent emailing, calling, or reviewing each other's work to have resulted in unnecessary costs.

11. The Commission accepts the CCA's assertions that Bema Enterprises' consultants have extensive regulatory experience with respect to, amongst other things, wildfire risk mitigation.⁶ However, given that the scope of the original proceeding was to determine whether the Type 1 capital criteria were met and not to assess the reasonableness of Fortis's forecast Type 1 capital revenue requirement, it is unclear to the Commission the extent to which these consultants needed to be involved and the value that their duplicative efforts provided to the Commission, particularly in the context of the narrow questions to be addressed in the Module 1 proceeding.

12. For these reasons, the Commission applies a 50 per cent reduction to the consulting fees claimed for Bema Enterprises. Accordingly, the Commission approves the CCA's claim for consulting fees for Bema Enterprises in the amount of \$17,331.30⁷ and GST of \$866.57 for a total of \$18,197.87.

13. For the reasons provided above, the Commission approves the CCA's claim for recovery of costs in the total amount of \$73,533.40, consisting of legal fees of \$22,372.50, consulting fees of \$45,802.80, disbursements of \$1,856.50 and GST of \$3,501.60.

³ Decision 27388-D01-2023: 2024-2028 Performance-Based Regulation Plan for Alberta Electric and Gas Distribution Utilities, Proceeding 27388, October 4, 2023.

⁴ Decision 29513-D01-2025: FortisAlberta Inc. Type 1 Capital Tracker Application, Proceeding 29513, April 25, 2025.

⁵ Exhibit 29513-X0019, AUC letter - Issues list and process schedule, PDF page 1, paragraph 4.

⁶ Exhibit 29862-X0003, CCA, 29513 - Fortis Capital Tracker - CCA Cost Claim Application.

⁷ $\$34,662.60 \times 0.50 = \$17,331.30$.

3 Order

14. The Commission approves Application 29862-A001, under sections 21 and 23 of the *Alberta Utilities Commission Act* and Rule 022, and orders as follows:

- (1) FortisAlberta Inc. shall pay intervener costs to the Consumers' Coalition of Alberta in the total amount of \$73,533.40 within 30 days of this Order.
- (2) FortisAlberta Inc. shall record in its Hearing Costs for Interveners Account approved intervener costs in the amount of \$73,533.40.

Dated on May 1, 2025.

Alberta Utilities Commission

(original signed by)

Kristi Sebalj
Vice-Chair