



Alberta Electric System Operator and
EPCOR Distribution and Transmission Inc.

West Edmonton Transmission Upgrade Project

Advance Funding Request from the
Lynnwood Community League

Advance Funding Award

October 24, 2019

Alberta Utilities Commission

Decision 24696-D01-2019

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1 Introduction

1. In this decision, the Alberta Utilities Commission considers an application for advance funding by the Lynnwood Community League (LCL) for its participation in Proceeding 23943¹ (the advance funding application). In Proceeding 23943 the Commission will be considering an application by the Alberta Electric System Operator for approval of a needs identification document and applications by EPCOR Distribution and Transmission Inc. (transmission) for approval of facilities applications² related to the West Edmonton Transmission Upgrade Project (the project). The LCL is a community and homeowner organization representing parties that occupy land near the project. In this decision, the Commission approves advance funding for the LCL in the amount of \$92,873.13 for the reasons that follow.

2 Details of the advance funding application

2. On June 28, 2019, the LCL filed the advance funding application in which it included budgets for consulting and legal services in the amount of \$232,182.83. The Commission assigned Proceeding 24696 and Application 24696-A001 to the application.

3. The LCL advised that it is comprised of residential property owners, individuals, families and business owners affected by the proposed project. The LCL stated that it requires financial assistance to fully participate in Proceeding 23943 given the need for legal, technical and expert services to address relevant issues.

4. In its advance funding application, the LCL advised that it had retained consultants to address various issues related to its participation in EPCOR's facility applications in Proceeding 23943. The LCL proposed a budget for consulting services totalling \$56,379, in accordance with Rule 009: *Rules on Local Intervener Costs*. The table below summarizes the consultants retained by the LCL, the issues that each will address, and the total budget for their respective services.

Expert	Issues	Budget
CanACRE Ltd.	Visual impacts	\$30,639
Gettel Appraisals Ltd.	Property devaluation	\$5,250
FDI Acoustics Inc.	Noise levels and noise impacts	\$19,950

¹ Proceeding 23943: Alberta Electric System Operator and EPCOR Distribution and Transmission Inc. West Edmonton Transmission Upgrade Project.

² Application Numbers 23943-A002 to 23943-A006

Expert	Issues	Budget
Magda Havas, PH.D.	Electromagnetic fields (EMFs) and associated health impacts	\$540 ³

5. The LCL also estimated legal costs to be provided by Ackroyd LLP at \$176,343.83 for its assistance in the LCL's intervention in Proceeding 23943. Total of the estimated legal and consultant fees, disbursements and GST is \$232,182.83

6. The LCL requested that the Commission order an advance of 50 per cent of its estimated costs.

7. On August 26, 2019, EPCOR submitted comments on the advance funding application, noting that the subject areas identified appeared to be relevant to the project. EPCOR indicated that it did not have specific objections to the request for advance funding but reserved its right to comment on the LCL's full cost claim following the completion of the proceeding. On August 28, 2019, Ackroyd, on behalf of LCL, stated it had no reply submissions. The Commission considers the close of record for this proceeding to be August 28, 2019.

3 Commission's authority to award advance funding

8. The Commission's authority to award costs for participation in facility-related proceedings is found in sections 21 and 22 of the *Alberta Utilities Commission Act*, SA 2007, c. A-37.2. In assessing an advance funding request for a party determined to be a "local intervener" in a facility-related proceeding, the Commission applies Section 2 of Rule 009 which states the following:

2. Advance of funds request

2.1 A local intervener who intends to take part in a hearing or other proceeding may, at any time during the hearing or other proceeding, make a request to the Commission for an advance of funds in accordance with the scale of costs set out in Appendix A and submit a budget in accordance with Appendix B.

2.2 The Commission may award an advance of funds to a local intervener if the local intervener demonstrates a need for financial assistance to address relevant issues in the hearing or other proceeding.

2.3 If the Commission awards an advance of funds to a local intervener under Section 2.2, the Commission may

2.3.1 advance the funds to the local intervener and

- (i) set out the terms for repayment of the advance to the Commission by the local intervener, or

³ The Lynnwood Community League did not include this amount (i.e. \$540 for consulting work by Magda Havas) in its requested relief for advance funding of 50% of its projected legal and consultant fees, disbursements and GST of \$232,182.83.

- (ii) direct the applicant to reimburse the Commission for the funds advanced to the local intervenor

or

2.3.2 direct the applicant to advance funds to the local intervenor and set out the terms of repayment for the advance to the applicant by the intervenor.

4 Commission decision

9. In its March 22, 2019 ruling, the Commission granted standing to the LCL “in its own right and as the representative of those members who indicated they were represented by the Lynnwood Community League.”⁴ The Commission finds that the LCL qualifies as a “local intervenor” pursuant to Section 22 of the *Alberta Utilities Commission Act*. It may therefore claim costs and is eligible for advance funding.

10. The Commission has considered the nature of Proceeding 23943, the submissions of the LCL, including the description of proposed consultant evidence and legal assistance, the associated budget, and submissions on the need for financial assistance. The Commission notes that EPCOR has no objections to the LCL’s request for advance funding. In accordance with Section 2 of Rule 009, the Commission is satisfied that the LCL has demonstrated a need for financial assistance to address relevant issues in the proceeding, and has determined that some amount of advance funding is warranted in this case.

11. Historically, when the Commission has approved an award of advance funding it has awarded between 30 and 60 per cent of an intervenor’s projected costs where they can be reasonably explained. The LCL has requested advance funding of 50 per cent of its total budgeted legal and consultant costs of \$232,182.83.

12. The Commission has reviewed the nature of Proceeding 23943, the advance funding application, including the budget and scope of work described for legal and consulting services, and the lack of objection to the advance funding application. In these circumstances, the Commission considers that an advance funding award of 40 per cent of the total budgeted legal and consultant costs, as calculated by the LCL, is warranted.

13. In view of the above, the Commission approves an advance funding award of \$92,873.13, which is 40 per cent of the proposed legal and consultant fees, disbursements and GST submitted by the LCL.

14. The Commission emphasizes that the advance funding approved by the Commission is subject to adjustment when the final costs are determined at the completion of Proceeding 23943. If the LCL accepts the advance funding award pursuant to this decision and the final costs award for the LCL relating to Proceeding 23943 is less than the amount of advance funding directed in this decision, the LCL will be required to repay the difference.

15. In making this advance funding award, the Commission makes no determination on the value of the LCL’s participation in Proceeding 23943, the weight that may be attributed by the

⁴ Exhibit 23943-X0176, paragraph 20.

Commission to the evidence given by its consultants, the merits of legal arguments that it may make, or the amount, if any, of any final costs award that the Commission may issue.

16. All fees and disbursements eventually claimed by any eligible party following the conclusion of a proceeding must ordinarily conform to the Scale of Costs adopted by the Commission. Any eligible party claiming costs exceeding the Scale of Costs will be required to provide evidence that the scale is inadequate given the complexity of the proceeding in accordance with the provisions of Rule 009. In assessing costs, the Commission will consider the effectiveness of the participation by each eligible party and whether the costs of the participation were reasonable and directly and necessarily related to the proceeding.

5 Order

17. It is hereby ordered that:

- (1) EPCOR Distribution and Transmission Inc. (transmission) shall pay advance funding in the amount of \$92,873.13 to the Lynnwood Community League. Payment shall be made to Ackroyd LLP.
- (2) EPCOR Distribution and Transmission Inc. (transmission) shall record in its Hearing Cost Reserve Account the allowed advance funding costs in the amount of \$92,873.13.

Dated on October 24, 2019.

Alberta Utilities Commission

(original signed by)

Anne Michaud
Vice-Chair

(original signed by)

Neil Jamieson
Commission Member

(original signed by)

Kristi Sebalj
Commission Member