



**ATCO Electric Ltd.  
Rycroft 730S Substation Expansion Project**

**Costs Award**

**October 21, 2020**

**Alberta Utilities Commission**

Decision 25783-D01-2020

ATCO Electric Ltd.

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Proceeding 25783

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Published by the:

Alberta Utilities Commission

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## Contents

<b>1</b>	<b>Introduction .....</b>	<b>1</b>
<b>2</b>	<b>Commission’s authority to award costs and intervener eligibility .....</b>	<b>2</b>
<b>3</b>	<b>Dennis Woronuk, Bryan Woronuk and Kelly Woronuk .....</b>	<b>3</b>
3.1	Stringam LLP .....	3
3.1.1	Comments from ATCO.....	3
3.1.2	Commission findings .....	3
3.2	Intervener honoraria and disbursements .....	4
3.2.1	Comments from ATCO.....	4
3.2.2	Commission findings .....	4
3.3	Total awarded to the Woronuks .....	6
<b>4</b>	<b>Order .....</b>	<b>7</b>

**Alberta Utilities Commission**  
**Calgary, Alberta**

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**1 Introduction**

1. In this decision the Alberta Utilities Commission considers a costs claim application by Dennis Woronuk, Bryan Woronuk and Kelly Woronuk (the Woronuks) for approval and payment of their costs of participation in Proceeding 25181<sup>1</sup> (the original proceeding).

2. The following table sets out the costs claimed and the amounts awarded:

Claimant	Total Fees Claimed	Total Disbursements Claimed	Total GST Claimed	Total Amount Claimed	Total Fees Awarded	Total Disbursements Awarded	Total GST Awarded	Total Amount Awarded
The Woronuks								
Stringam LLP	\$15,575.00	\$593.15	\$808.41	\$16,976.56	\$14,962.50	\$593.15	\$777.79	\$16,333.44
Intervener honoraria and disbursements	\$10,500.00	\$1,884.60	\$0.00	\$12,384.60	\$600.00	\$825.60	\$0.00	\$1,425.60
Total	\$26,075.00	\$2,477.75	\$808.41	\$29,361.16	\$15,562.50	\$1,418.75	\$777.79	\$17,759.04
Total amount claimed				\$29,361.16	Total amount awarded			\$17,759.04

3. The Commission has awarded reduced costs to the Woronuks for the reasons set out below.

4. The original proceeding was convened by the Commission to consider applications from ATCO Electric Ltd. (transmission) to alter and operate the Rycroft 730S Substation and Transmission Line 7L10 and for the temporary line bypass between transmission lines 7L68 and 7L10. The original proceeding included information requests (IRs) and responses, written evidence and rebuttal evidence, a virtual oral hearing held on June 30, 2020, 2019, and written argument and reply argument. The close of record for the original proceeding was July 14, 2020, and the Commission issued Decision 25181-D01-2020<sup>2</sup> on August 11, 2020.

5. The Woronuks submitted their costs claim application on August 13, 2020, within the 30-day timeline permitted by the Commission's Rule 009: *Rules on Local Intervener Costs*. The Commission assigned Proceeding 25783 and Application 25783-A001 to the costs claim application. On August 18, 2020, the Woronuks submitted their Affidavit of Fees and Disbursements,<sup>3</sup> as requested by the Commission.<sup>4</sup>

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<sup>1</sup> Proceeding 25181: ATCO Electric Ltd. Rycroft 730S Substation Expansion Project.

<sup>2</sup> Decision 25181-D01-2020: ATCO Electric Ltd. Rycroft 730S Substation Expansion Project, Proceeding 25181, August 11, 2020.

<sup>3</sup> Exhibit 25783-X0006, 200818 U5 Affidavit of Fees and Disbursements Dennis Woronuk 25181, August 18, 2020.

<sup>4</sup> Exhibit 25783-X0005, Email request for Affidavit of Fees and Disbursements, August 17, 2020.

6. On August 21, 2020, ATCO Electric filed comments on the Woronuk's costs claim application. The Commission considers the close of record for this proceeding to be August 27, 2020, the deadline for filing reply comments.<sup>5</sup>

## 2 Commission's authority to award costs and intervenor eligibility

7. The Commission's authority to award costs is found in sections 21 and 22 of the *Alberta Utilities Commission Act*. When assessing a costs claim pursuant to Section 21 of the *Alberta Utilities Commission Act*, the Commission applies Rule 009 and is guided by the factors set out in Section 7 of Rule 009 and the Scale of Costs found in Appendix A of Rule 009.

8. Section 7 of Rule 009 provides that the Commission may award costs, in accordance with the Scale of Costs, to a "local intervenor" if the Commission is of the opinion that:

7.1.1 the costs are reasonable and directly and necessarily related to the hearing or other proceeding, and

7.1.2 the local intervenor acted responsibly in the hearing or other proceeding and contributed to a better understanding of the issues before the Commission.

9. Section 22 of the *Alberta Utilities Commission Act* defines "local intervenor" as follows:

22(1) For purposes of this section, "local intervenor" means a person or group or association of persons who, in the opinion of the Commission,

(a) has an interest in, and

(b) is in actual occupation of or is entitled to occupy

land that is or may be directly and adversely affected by a decision or order of the Commission in or as a result of a hearing or other proceeding of the Commission on an application to construct or operate a hydro development, power plant or transmission line under the *Hydro and Electric Energy Act* or a gas utility pipeline under the *Gas Utilities Act*, but unless otherwise authorized by the Commission does not include a person or group or association of persons whose business interest may include a hydro development, power plant or transmission line or a gas utility pipeline.

10. In the Commission's ruling on standing in the original proceeding,<sup>6</sup> the Commission granted standing to Messrs. Dennis, Bryan and Kelly Woronuk, as each was found to own or occupy the land upon which the facilities proposed in the applications would be located, and therefore they have land-based rights that may be directly and adversely affected by the Commission's decision on the applications in the original proceeding. Having been granted standing, Messrs. Dennis, Bryan and Kelly Woronuk were found to be eligible to potentially recover costs of their participation in the original proceeding, as they were found to fall within the definition of "local intervenor" in Section 22 of the *Alberta Utilities Commission Act*. The Commission has therefore applied Rule 009 to the costs claim application filed by the Woronuks.

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<sup>5</sup> Exhibit 25783-X0004, Process announcement, date, August 14, 2020.

<sup>6</sup> Exhibit 25181-X0030, AUC ruling on standing and hearing notice, January 27, 2020.

### 3 Dennis Woronuk, Bryan Woronuk and Kelly Woronuk

11. The following table summarizes the Woronuk's costs claim:

Claimant	Hours			Fees	Disbursements	GST	Total
	Preparation	Attendance	Argument				
The Woronuks							
Stringam LLP	32.00	4.50	8.00	\$15,575.00	\$593.15	\$808.41	\$16,976.56
Intervener honoraria and disbursements	0.00	0.00	0.00	\$10,500.00	\$1,884.60	\$0.00	\$12,384.60
Total	32.00	4.50	8.00	\$26,075.00	\$2,477.75	\$808.41	\$29,361.16

12. The Commission finds that the Woronuks acted responsibly in the original proceeding and contributed to the Commission's understanding of the relevant issues. However, the Commission is unable to approve the full amount of the costs claimed for the reasons set out below.

#### 3.1 Stringam LLP

13. The Woronuks were represented by Stringam LLP in the original proceeding. The fees claimed by the Woronuks for the legal services provided by Patrice Brideau of Stringam LLP relate to reviewing the applications, preparing and filing written evidence, acting as counsel in the virtual oral hearing by presenting the Woronuks' direct evidence and cross-examining ATCO's witnesses, and preparing and filing written argument and reply argument.

##### 3.1.1 Comments from ATCO

14. ATCO Electric asserted that the total amount of costs claimed by the Woronuks was excessive, given the scope and complexity of the issues and given the nature of the interveners' participation in the original proceeding. Specifically, ATCO stated that the time entries for Stringam LLP lacked the level of detail required to assess the nature of the tasks performed or the reasonableness of the amount of time spent performing those tasks.

##### 3.1.2 Commission findings

15. While the Commission finds that the services performed by Stringam LLP were directly and necessarily related to the Woronuks' participation in the original proceeding, it finds that the fees claimed for some of these services were unreasonable or excessive for the following reasons. The Stringam LLP Pre-bill includes 1.70 hours claimed for travel to and from a meeting with the clients at the project site on May 28, 2020.<sup>7</sup> Because the Scale of Costs only allows professionals to claim one-half of their hourly rate for travel time, the Commission reduces the rate for 1.70 hours from the claimed rate of \$350.00 to the allowed rate of \$175.00. In addition, the Pre-bill includes a total of 0.90 hours<sup>8</sup> to prepare the costs claim and to revise the costs claim. Because the preparation and filing of costs claims does not occur in the original proceeding for the purposes of that proceeding, and does not contribute to the Commission's understanding of the issues in the original proceeding, the Commission does not approve the claim for this part of

<sup>7</sup> Exhibit 25783-X0001, Cost Claim per Rule 009, August 13, 2020, PDF page 8.

<sup>8</sup> Exhibit 25783-X0001, PDF page 10: 0.50 hours on 07/14/2020 and 0.40 hours on 08/11/2020.

an hour. Accordingly, the Commission approves legal fees for Stringam LLP in the total amount of \$14,962.50.<sup>9</sup>

16. The Woronuks also claimed disbursements for Stringam LLP of \$77.00 for mileage to meet the clients at the site, \$453.75 for transcripts and \$62.40 for photocopying. The Commission finds the disbursements to be reasonable and approves them.

17. Accordingly, the Commission approves the Woronuks' claim for legal fees for Stringam LLP in the amount of \$14,962.50, disbursements of \$593.15 and GST of \$777.79 for a total of \$16,333.44.

### **3.2 Intervener honoraria and disbursements**

18. The Woronuks claimed preparation honoraria of \$10,000.00 for Dennis Woronuk, \$300.00 for Bryan Woronuk and \$100.00 for Kelly Woronuk; and claimed an attendance honoraria of \$100.00 for Dennis Woronuk. In addition, the Woronuks claimed disbursements of \$300.00 for accommodations, \$10.00 for meals, \$1,453.60 for mileage, \$21.00 for photocopying and \$100.00 for telephone, computer and internet fees.

#### **3.2.1 Comments from ATCO**

19. ATCO Electric asserted that the \$10,000.00 preparation honorarium claimed for Mr. Dennis Woronuk exceeded the range allowed for in Appendix A of Rule 009 and was claimed despite the appearance that Stringam LLP had been involved in the preparation of the Woronuks' submissions.

#### **3.2.2 Commission findings**

20. Dennis Woronuk's claim for a \$10,000.00 preparation honorarium represents approximately 80 per cent of the total amount claimed by the Woronuks' for their personal participation in the hearing (i.e., excluding their claim for the cost of legal services). On his Form U5, Mr. Woronuk stated that he should be entitled to claim fees in excess of the Scale of Costs because: "[t]he magnitude of filings, duration of this proceeding, legal complexity, attendance, disbursements and travel costs, and time and effort spent justify payment in full."<sup>10</sup> He provided the following additional explanation for the amount claimed:

I have spent in excess of 300 hours on this proceeding between filings, correspondence (emails and letters), reading all of the registered documents, meetings, telephone calls, intervenor preparation for the hearing itself, attendance at virtual hearing, preparation and submission of final arguments. I am a registered Professional Engineer in Alberta and although I am retired, I am on the Board of Directors of a number of companies where my compensation is in excess of \$300 per hour.<sup>11</sup>

21. Appendix A of Rule 009 provides a Scale of Costs that "... represents a fair and reasonable tariff to provide any eligible interested party with adequate, competent and professional assistance in making an effective submission before the Commission." It also indicates that "[i]n a case where an eligible participant can advance persuasive argument that the

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<sup>9</sup> (1.7 hours \* \$175.00) + (41.9 hours \* 350) = \$14,962.50.

<sup>10</sup> Exhibit 25783-X0006, PDF page 1.

<sup>11</sup> Exhibit 25783-X0001, PDF page 5.

scale is inadequate given the complexity of the case, the Commission may award an amount greater than stated in this scale to address such unique circumstances.”

22. Section 2.b) of Appendix A of Rule 009 allows for a preparation honorarium in the range of \$300.00 to \$2,500.00, depending on the complexity of the submission, for a local intervener who personally prepares a submission without expert help. It also states that a preparation honorarium may not be awarded if a lawyer is primarily responsible for the preparation of an intervention, and that when a submission is prepared on behalf of a group of interveners without expert help, up to four people may be entitled to preparation honoraria.

23. The Commission has previously stated that an award in excess of the Scale of Costs is only justified in unique circumstances when the complexity of the matter makes a persuasive argument that the Scale of Costs is inadequate.<sup>12</sup>

24. Mr. Dennis Woronuk’s claim for a \$10,000.00 preparation honorarium faces a few challenges. First, it is apparent from the claim for legal fees that the Woronuks’ legal counsel was involved drafting and revising the evidence and argument filed by the Woronuks in the proceeding. The Scale of Costs indicates that a preparation honorarium should not be awarded in such circumstances. Second, the amount claimed is more than four times the amount that the Scale of Costs states is at the top of the range of awards for a preparation honorarium, indicating that an award of \$10,000.00 would be justified only in highly complex proceedings. The Commission does not consider that the original proceeding, being applications for approval of facilities that were previously found<sup>13</sup> to be required to support the transmission system in the Rycroft area, was a complex proceeding.

25. The Commission notes that Mr. Dennis Woronuk is the owner of the lands on which the facilities approved in the original proceeding will be located and accepts that he devoted a substantial amount of time preparing for the Commission’s hearing. However, given that the issues were not complex and that the Woronuks retained legal counsel to lead their intervention, the Commission finds that a preparation honorarium for Dennis Woronuk in the amount of \$500.00 is an amount that recognizes his efforts but is also consistent with the principles set out in the Scale of Costs. The Commission therefore awards a preparation honorarium of \$500.00 to Dennis Woronuk.

26. The Commission has considered the claim for a preparation honorarium for each of Bryan Woronuk and Kellie Woronuk. Neither of those individuals participated in the hearing in the original proceeding and both were represented by legal counsel who helped prepare and file written submissions on their behalf. In accordance with the guidance in the Scale of Costs, the Commission does not award a preparation honorarium to Bryan Woronuk or Kellie Woronuk.

27. The Commission finds that, as a local intervener participating in one full hearing day, Mr. Dennis Woronuk’s claim for attendance honorarium of \$100.00 is within the Scale of Costs and is approved.

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<sup>12</sup> For example, see Decision 2013-316: ATCO Electric Ltd. Rate Regulation Initiative Performance-Based Regulation, Z Factor Adjustment Application Costs Award, Proceeding 2527, August 27, 2013, paragraphs 15 and 16.

<sup>13</sup> Decision 23105-D01-2019: Alberta Electric System Operator Rycroft 730S Substation Voltage Support Needs Identification Document, Proceeding 23105, May 3, 2019.



28. The Commission reviewed the Woronuks' claimed disbursements of \$300.00 for accommodations, \$1,453.60 for mileage, \$10.00 for meals, \$21.00 for photocopying and \$100.00 for telephone, computer and internet fees. The Commission notes that the Scale of Costs only allows claims for personal disbursements that are reasonably incurred during an oral hearing.

29. Dennis Woronuk claimed \$300.00 for accommodations during the hearing, however, he explained that he actually stayed at his brother's home. He submitted that the amount claimed (\$75.00 per night for four nights) was fair and reasonable compensation for that service, and was lower than the costs would have been for him to stay in a hotel in Grande Prairie during the hearing. The Commission appreciates that Mr. Woronuk was conscious to avoid accommodation costs when he was able to stay with his brother during the hearing, however, the Commission must deny his claim for accommodation costs because the Scale of Costs only allows recovery for out-of-pocket costs that are actually incurred and are evidenced by a receipt.

30. Dennis Woronuk's claim for mileage is for two round trips from Calgary to Rycroft and one round trip from Rycroft to Grande Prairie. Only one of those trips was for the purpose of participating in the virtual oral hearing at Stringam LLP's offices in Grande Prairie. The Commission therefore approves a mileage claim for 1,510 kms, being one round trip from Calgary to Grande Prairie for Mr. Woronuk to attend the virtual oral hearing, at \$.46 per kilometer or \$694.60. The Commission finds the remaining disbursements of \$10.00 for meals, \$21.00 for photocopying and \$100.00 for telephone, computer and internet fees, which were claimed in accordance with the Scale of Costs, are reasonable and are approved.

31. Accordingly, the Commission approves the Woronuks' claim for preparation honoraria of \$500.00, attendance honorarium of \$100.00 and disbursements of \$825.60.

### **3.3 Total awarded to the Woronuks**

32. For the reasons provided above, the Commission approves the Woronuks' claim for recovery of costs in the total amount of \$17,759.04. This amount is composed of legal fees of \$14,962.50, preparation honorarium of \$500.00, attendance honorarium of \$100.00, disbursements of \$1,418.75 and GST of \$777.79.

#### **4 Order**

33. It is hereby ordered that:

- 1) ATCO Electric Ltd. (transmission) shall pay intervener costs to Dennis Woronuk, Bryan Woronuk and Kelly Woronuk in the total amount of \$17,759.04. Payment shall be made to Stringam LLP on behalf of Dennis Woronuk, Bryan Woronuk and Kelly Woronuk.
- 2) ATCO Electric Ltd. (transmission) shall record in its Hearing Costs Reserve account approved intervener costs in the amount of \$17,759.04.

Dated on October 21, 2020.

**Alberta Utilities Commission**

*(original signed by)*

Neil Jamieson  
Commission Member