

Rule 009

Rules on Local Intervener Costs

This rule as amended was approved by the Alberta Utilities Commission on **MMM DD, 2024**, and is effective on **MMM DD, 2024**.

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1 Definitions

In this rule:

- (1) "act" means the *Alberta Utilities Commission Act*;
- (2) "applicant" means a person who files an application commencing a facilities proceeding;
- (3) "Commission" means the Alberta Utilities Commission;
- (4) "eligible intervener" means an intervener that:
 - (a) is a local intervener;
 - (b) is a municipality; or
 - (c) is otherwise determined to be an eligible intervener by the Commission;
- (5) "facilities proceeding" means an application under the *Hydro and Electric Energy Act* or the *Pipeline Act*;
- (6) "facilities review proceeding" means a proceeding convened to consider an application to review a Commission decision made in a facilities proceeding;
- (7) "intervener" means a participant in a facilities proceeding who is not the applicant or the Commission;
- (8) "local intervener" means a local intervener as defined in Section 22 of the *Alberta Utilities Commission Act*.
- (9) "municipality" means a city, town, village, summer village, municipal district or specialized municipality, a town under the *Parks Towns Act*, or a municipality formed by special Act;
- (10) "scale of costs" means the scale of costs set out in Appendix A;

2 Application of Rule 009

- (1) These rules apply to facilities proceedings, facilities review proceedings and any other proceeding to which the Commission determines these rules apply.
- (2) Unless the Commission otherwise directs, these rules do not apply to any pre-application process connected with a proceeding referred to in 2(1);
- (3) Unless the Commission otherwise directs, in a hearing or other proceeding that relates to a specific licensee, operator or approval holder, the licensee, operator or approval holder shall pay the costs awarded to an eligible intervener.

- (4) The Commission may dispense with, vary or supplement all or any part of these rules if it is satisfied that the circumstances of any proceeding, or the fair, expeditious and efficient resolution of any issue, require it.

3 Costs eligibility request

- (1) Within the course of a proceeding, the Commission may direct an intervener to file a request for costs eligibility in accordance with the Rule 009 Costs Eligibility Form
- (2) If the intervener is seeking advanced funding in a proceeding in which the Commission has not made a direction under 3(1), an intervener may file a request for costs eligibility in accordance with the Rule 009 Costs Eligibility Form

4 Costs application

- (1) Eligible interveners may apply to the Commission for a cost award by filing a costs application in accordance with the Rule 009 Costs Application Form.
- (2) An eligible intervener who files a costs application has the onus of demonstrating that the costs claimed are reasonable and that their participation contributed to a better understanding of the issues raised in the proceeding.
- (3) All costs applications must be in accordance with the scale of costs unless the Commission authorized the eligible intervener to claim costs in excess of the scale of costs in a proceeding.
- (4) Unless otherwise directed, all costs applications must be filed within 30 days after the facilities proceeding, facilities review proceeding or other proceeding, is closed.
- (5) All costs applications must be filed using the Commission's eFiling System.
- (6) After receipt of a costs application, the Commission may direct the eligible intervener who filed the costs claim to file additional information or documents with respect to the costs claimed.
- (7) The Commission shall issue notice of a costs application on the record of the proceeding to which the claim relates.

5 Facilities review proceedings

- (1) A cost claim for a facilities review application may either be filed within 30 days after the Commission's determination of the review application or, where the Commission has granted a review application and held a hearing or other proceeding to decide whether to confirm, rescind or vary the decision, within 30 days after the conclusion of that hearing or other proceeding.
- (2) When the Commission denies an application for a review under Rule 016: Review of Commission Decisions, the review applicant shall bear its own costs.

- (a) If the unsuccessful review applicant was the applicant, the applicant must also bear the costs of eligible interveners.
- (b) If the unsuccessful review applicant was the applicant, and the applicant has a tariff regulated by the Commission, review application costs cannot be recovered from ratepayers or otherwise reflected in the tariff.
- (c) If the unsuccessful review applicant was an intervener, and the applicant has a tariff regulated by the Commission, the applicant's costs may be assigned to its hearing cost reserve account unless otherwise directed.

6 Comments on costs application

- (1) Unless otherwise specified by the Commission,
 - (a) an applicant may file a submission detailing any questions and comments on the costs claimed within seven days of the deadline for filing a costs claim.
 - (b) if an applicant files a submission under this section, an eligible intervener may file a reply submission within 14 days of the deadline for filing a costs claim.

7 Costs decision

- (1) When considering a costs application, the Commission may have regard for whether:
 - (a) The eligible intervener needed legal or technical assistance to take part in the proceeding.
 - (b) The eligible intervener brought expertise or insight to bear on the issues facing the Commission in the proceeding and contributed to a better understanding of the issues.
 - (c) The costs are reasonable.
 - (d) The eligible intervener acted responsibly in the proceeding, including whether the eligible intervener:
 - (i) pursued irrelevant issues through information requests and/or questioning, taking into account their materiality and the scope of any established issues list, if applicable;
 - (ii) failed to adhere to Rule 001: *Rules of Practice* and any Commission rulings and directions such as page and time limits;
 - (iii) asked duplicative information requests or questions, or otherwise failed to avoid duplication of work by coordinating with other eligible interveners;

- (iv) presented new evidence in argument or during an oral hearing that was available at the time the eligible intervener filed documentary evidence; and
 - (v) engaged in any other conduct that unnecessarily lengthened the proceeding or resulted in unnecessary costs to the Commission, or the other eligible interveners.
 - (e) Any other matter that the Commission determines to be material and relevant to the costs application.
- (2) Having regard to the above factors, and any other factor that, in the opinion of the Commission, is material and relevant to a costs application, the Commission may:
- (a) Approve or deny the costs application, in whole or in part;
 - (b) Grant partial, further or other relief in addition to, or in substitution for, that applied for;
 - (c) Direct that any participant or other person, pay another participant's costs, or portion thereof; and
 - (d) Include any terms and conditions that it prescribes.

8 Coming into force

This rule comes into force on **MMM DD, 2024**, and applies to all facilities proceedings or facilities review proceedings registered after this date.

Appendix A – Scale of costs

In accordance with Section 4(3) of Rule 009, all claims for professional fees and disbursements must be in accordance with this scale of costs, unless the Commission authorized the eligible intervener to claim costs in excess of this scale of costs in a proceeding.

1. Professional fees

Professional fees (maximum hourly rates)		
Years of experience	Legal fees	Consultant, analyst, and expert fees
Articling student	\$190 per hour	Not applicable
0-4 years	\$315 per hour	\$160 per hour
5-7 years	\$380 per hour	\$210 per hour
8-12 years	\$430 per hour	\$315 per hour
More than 12 years	\$475 per hour	\$370 per hour

2. Fees for administrative, clerical or other support services

Legal fees are deemed to include all overhead charges implicit in the normal operation of a law firm, including work performed by administrative, clerical or support staff.

Consultants, analysts and experts may include reasonable fees for work performed by administrative, clerical or other support staff at a rate of \$60 per hour. The Commission will not recognize claims for overhead based upon percentages of the fees or disbursements claimed.

Statements of account/invoices/timesheets for professional and administrative fees are to be filed by Claimants.

3. Disbursements

Office disbursements

The following office disbursements are eligible for recovery without a receipt. However, Claimants should retain receipts for such disbursements because the Commission will require their submission if the claim is selected for a more detailed review. To support the environment, and given the existence of the eFiling System, the Commission no longer permits cost recovery for photocopies.

- courier charges
- postage
- transcripts
- miscellaneous charges

The Commission will not consider disbursement claims based upon percentages of fees claimed.

Travel disbursements

Claims for travel disbursements are **limited to travel to and from a site visit or a hearing or proceeding**. While it is not necessary to submit receipts for all travel disbursements, Claimants should retain receipts for all travel disbursements because the Commission will require their submission if the claim is selected for a more detailed review.

Expense type	Limit	Receipt required
Meal allowances		
breakfast	\$13 (including GST)	no
lunch	\$17 (including GST)	
dinner	\$27 (including GST)	
Accommodation	The actual expense of accommodation at a reasonably priced hotel may be claimed	yes
Airfare	Economy class air travel	yes
Private vehicle mileage	\$0.55 per kilometre (including GST), restricted to intercity travel distances of 50 kilometres or greater	no
Taxi		no
Parking		no

4. Honoraria and disbursements

Local intervener honoraria	
Formation/organization of a group of local interveners	\$500
Preparation of submission by a local intervener that is not claiming professional fees	\$300-\$2500
Attendance at a hearing for up to six local interveners	\$100 per day
Reasonable expenses associated with group organization (e.g., hall rental)	

Municipality honoraria	
Preparation of submission by a municipality that is not claiming professional fees	\$300-\$2500
Attendance at a hearing for municipal employee	\$300 per day