

# Rule 009

(Formerly EUB Rules of Practice)

## Rules on Local Intervener Costs

The Alberta Utilities Commission (AUC/Commission) has approved this rule on January 2, 2008.

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### Costs

**1** In these rules,

- (a) “Act” means the *Alberta Utilities Commission Act*;
- (b) “costs order” means an order of the Commission awarding costs on a claim for costs to a local intervener;
- (c) “local intervener” means a local intervener as defined in section 22 of the Act.

### 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 *ERCB Directive 31A, Energy Cost Claims*.

**(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.

**(3)** If the Commission awards an advance of funds to a local intervener under subsection (2), the Commission may

- (a) 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
  - (ii) direct the applicant to reimburse the Commission for the funds advanced to the local intervener,

or

- (b) direct the applicant to advance funds to the local intervener and set out the terms for repayment of the advance to the applicant by the intervener.

### **Budget to be Filed**

**3** The Commission may, at any time during a hearing or other proceeding, require a local intervener to file a budget of the intervener's anticipated costs in the proceeding in accordance with *ERCB Directive 31A, Energy Cost Claims*.

### **Interim Awards**

**4(1)** A local intervener may apply to the Commission for an award of interim costs incurred in a hearing or other proceeding by filing an interim costs claim in accordance with *ERCB Directive 31A, Energy Cost Claims*.

**(2)** A local intervener may only claim interim costs in accordance with the scale of costs set out in *ERCB Directive 31A, Energy Cost Claims*.

**(3)** The Commission may award interim costs to a local intervener if the Commission is of the opinion that

- (a) the costs are reasonable and directly and necessarily related to the hearing or other proceeding,
- (b) the hearing or other proceeding in which interim costs are claimed is lengthy, and
- (c) the local intervener has demonstrated a need for financial assistance to continue to address relevant issues in the hearing or other proceeding.

**(4)** If the Commission awards interim costs to a local intervener under subsection (3), the Commission may

- (a) pay the interim costs to the local intervener and
  - (i) set out terms for repayment of the interim costs to the Commission by the local intervener if the Commission varies or denies costs on a claim for costs filed by the local intervener at the close of the proceeding, or
  - (ii) direct the applicant to reimburse the Commission for the interim costs paid to the local intervener,or
- (b) direct the applicant to pay the interim costs to the local intervener and set out terms for repayment of the interim costs to the applicant by the local intervener if the Commission varies or denies costs on the claim for costs filed by the local intervener at the close of the hearing or other proceeding.

## Costs Claim

- 5(1)** A local intervener may apply to the Commission for an award of costs incurred in a hearing or other proceeding by filing a costs claim in accordance with the rules.
- (2)** A local intervener may only claim costs in accordance with the scale of costs.
- (3)** Unless otherwise directed by the Commission, a local intervener shall
- (a)** file a claim for costs within 30 days after the hearing or other proceeding is closed, and
  - (b)** serve a copy of the claim on the other parties.
- (4)** After receipt of a claim for costs, the Commission may direct the local intervener who filed the costs claim to file additional information or documents with respect to the costs claimed.

## Comments on Costs Claim

- 6** Unless otherwise specified by the Commission, in a hearing or other proceeding,
- (a)** within 14 days of the deadline for the filing of a costs claim referred to in section 5, the applicant in the proceeding to which the costs relate shall file and serve on the local intervener who filed the costs claim a submission detailing any questions and comments on the costs claimed, and
  - (b)** within 14 days of the receipt of the applicant's comments under clause (a), the local intervener shall file and serve on the applicant a reply respecting those comments.

## Costs Award

- 7(1)** The Commission may award costs, in accordance with the scale of costs set out in *ERCB Directive 31A, Energy Cost Claims* to a local intervener if the Commission is of the opinion that
- (a)** the costs are reasonable and directly and necessarily related to the hearing or other proceeding, and
  - (b)** the local intervener acted responsibly in the hearing or other proceeding and contributed to a better understanding of the issues before the Commission.
- (2)** In determining the amount of costs to be awarded to a local intervener, the Commission may consider whether the local intervener did one or more of the following:
- (a)** asked questions on cross-examination that were unduly repetitive of questions previously asked by another party and answered by that other party's witness;
  - (b)** made reasonable efforts to ensure that the local intervener's evidence was not unduly repetitive of evidence presented by another party;

- (c) made reasonable efforts to cooperate with other parties to reduce the duplication of evidence and questions or to combine the local intervener's submission with that of similarly interested local interveners;
- (d) presented in oral evidence significant new evidence that was available to the local intervener at the time the local intervener filed documentary evidence but which was not filed at that time;
- (e) failed to comply with a direction of the Commission, including a direction on the filing of evidence;
- (f) submitted evidence and argument on issues that were not relevant to the proceeding;
- (g) needed legal or technical assistance to take part in the proceeding;
- (h) engaged in conduct that unnecessarily lengthened the duration of the proceeding or resulted in unnecessary costs;
- (i) failed to comply with these rules.

### **Liability for Costs**

**8** Unless the Commission otherwise directs,

- (a) 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 a local intervener, and
- (b) in a hearing or other proceeding that relates to policies or concerns respecting utilities or facilities under the jurisdiction of the Commission, the Commission may pay the costs awarded to a local intervener.

### **Costs Order**

**9(1)** Where the Commission has awarded costs in a hearing or other proceeding, the Commission shall issue a costs order setting out the amount awarded and to whom and by whom the payment must be made.

**(2)** The Commission shall serve a copy of the costs order on the local intervener making the claim and on the applicant.

**(3)** An applicant named in a costs order shall pay the amount awarded to the local intervener within 30 days of being served with a copy of the costs order under subsection (2).

### **Expiry**

**10** These rules expire June 30, 2008.