



**PACE Canada Development LP
Killam (Old Bear) Solar Farm**

Costs Award

February 25, 2025

Alberta Utilities Commission

Decision 29678-D01-2025

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Proceeding 29678

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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 (AUC) considers an application by the Town of Killam for an award of costs for its participation in Proceeding 28643¹ (the original proceeding). For the reasons set out below, the Commission approves \$99,742.26 in costs for the Town.

2. The original proceeding was convened by the Commission to consider an application from PACE Canada Development LP for approval to construct and operate a 21.6-megawatt solar power plant, designated the Killam (Old Bear) Solar Farm, within the town of Killam, and connect the project to the FortisAlberta Inc. electric distribution system. The March 1, 2024 version of Rule 009: *Rules on Local Intervener Costs*, applies to the costs of participation in the original proceeding. The Town submitted its costs claim within the 30-day timeline permitted by the rule and notice of the costs application was issued.² In its reply submissions, the Town included supplemental information and a request to amend its costs claim. On December 30, 2024, the Town filed amended application forms, as requested by the Commission. This was followed by PACE's sur-reply submission. The record for this costs proceeding closed on January 7, 2025, the date it was determined that no information requests were required.

2 Town of Killam's claim

3. The Town is an urban municipality located in east central Alberta. The Town registered to participate in the original proceeding as the project is located within the Town's boundaries and will be subject to the Town's jurisdiction during its lifespan. In the original proceeding, the Town submitted evidence on land use planning, road use and development agreements, fire safety and emergency response, weed, vegetation, dust, soil, and pest management, waste management, development permits, and reclamation. The Town also made submissions concerning the jurisdictional overlap between the Town and the Commission.

4. On June 14, 2024, the Town was granted standing in the original proceeding³ and the Commission confirmed the Town's costs eligibility⁴ in accordance with sections 21 and 22 of the *Alberta Utilities Commission Act*.

¹ Proceeding 28643, Killam (Old Bear) Solar Farm.

² AUC letter – Process announcement for costs proceeding, filed in Proceeding 28643 on December 4, 2024; and Exhibit 29678-X0006, AUC – Process announcement.

³ Exhibit 28643-X0064, AUC letter - Ruling on standing, paragraph 10.

⁴ Exhibit 28643-X0064, AUC letter - Ruling on standing, paragraph 12.

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

Claimant	Hours			Fees/ Honoraria	Disbursements	GST	Total
	Preparation	Attendance	Argument				
Town of Killam							
Brownlee LLP	298.70	0.00	0.00	\$122,782.50 ⁵	\$80.00	\$6,143.13	\$129,005.63
Circle T Consulting	64.00	0.00	0.00	\$17,280.00	\$0.00	\$864.00	\$18,144.00
Total Fire Solutions Inc.	40.00	0.00	0.00	\$6,000.00	\$0.00	\$300.00	\$6,300.00
Total	402.70	0.00	0.00	\$146,062.50	\$80.00	\$7,307.13	\$153,449.63

6. In exercising its discretion to award costs, the Commission will, in accordance with Section 8 of Rule 009, consider whether the costs are reasonable and directly and necessarily related to the original proceeding, and whether the eligible participant acted responsibly and contributed to a better understanding of the issues before the Commission. The Commission considers these factors in light of the scope and nature of the original proceeding in assessing a claim for costs.

7. The Town claimed a combined total of \$146,142.50 in professional fees and disbursements⁶ for its participation in the original proceeding. This includes legal services performed by Brownlee LLP and consulting services performed by Circle T Consulting and Total Fire Solutions Inc. Considering the above factors, and for the reasons that follow, the Commission finds that a global reduction of 35 per cent to the combined professional fees and disbursements claimed by the Town is warranted.

8. The Commission finds that the Town generally acted responsibly in the original proceeding. The Commission is also satisfied that the costs claimed are consistent with the scale of costs in Appendix A of Rule 009. However, overall, the Commission finds that the Town's participation in the original proceeding did not materially contribute to the Commission's understanding of the relevant issues.

9. The Town stated that it did not oppose the project, but that it had concerns about its impact and the lack of detail in the application materials submitted by PACE.⁷ In Decision 28643-D01-2025,⁸ the Commission was satisfied that PACE's application had complied with the requirements of Rule 007: *Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines* and Rule 012: *Noise Control*, and met the information requirements for a connection order. In addition, the Town's evidence was generally unhelpful and did not substantially contribute to the Commission's determination of whether the project is in the public interest. In particular, the Town's extensive submissions concerning the jurisdictional overlap between the Town and the

⁵ This amounts in this table reflect the additional invoice for Brownlee LLP and the additional 6.5 hours claimed for legal fees provided in the Town's reply submissions (Exhibit 29678-X0010 and Exhibit 29678-X0011) and in the revised costs forms (Exhibit 29678-X0013 and Exhibit 29678-X0014).

⁶ \$122,782.50 (Brownlee LLP fees) + \$80.00 (Brownlee disbursements) + \$17,280.00 (Circle T Consulting fees) + \$6,000.00 (Total Fire Solutions Inc. fees) = \$146,142.50. This is the pre-GST, combined total of fees and disbursements claimed.

⁷ Exhibit 28643-X0095, INTERVENER EVIDENCE-SUBMISSIONS OF THE TOWN OF KILLAM SEPTEMBER 25, 2024, paragraph 4.

⁸ Decision 28643-D01-2025: PACE Canada Development LP on behalf of 2518365 Alberta Ltd., Killam (Old Bear) Solar Farm, Proceeding 28643, February 20, 2025.

Commission provided minimal benefit to the Commission. The Commission has addressed this issue in detail in several recent decisions.⁹

10. The Commission also agrees with PACE's submission that the majority of the Town's concerns could and should have been addressed outside of the AUC's process. This is illustrated by the fact that the Town ultimately settled on addressing most of its concerns about the project during its development permit process for the project.

11. Last, the Commission is not persuaded by the Town's argument that, in not supporting the Town's request to extend the hearing schedule by nine weeks, PACE had forced the Town to concurrently prepare for a hearing and negotiate settlements, rather than allowing the Town to focus on resolving its concerns prior to preparing for a hearing. The Commission is the master of its own process. Agreement between parties is a factor for the Commission to consider but is not determinative of a procedural motion. Further, the Commission expressly considered the issue of the Town's negotiations with PACE in its ruling on the Town's motion for an extension to the process schedule and noted that the negotiations can occur in parallel to the original proceeding.¹⁰ The Commission also noted that the Town had been able to review the application for at least four months at the time of the ruling and found that the Town had had a reasonable opportunity to start preparing its intervention. Notwithstanding, the Commission granted the Town's motion for an extension to the process schedule in the original proceeding in part by granting an approximately three-week extension to the process deadlines.

12. For all of these reasons, the Commission applies a global 35 per cent reduction to the \$146,142.50 in professional fees and disbursements claimed by the Town. In applying this global reduction, the Commission considers that the responsibility ultimately rests with the Town for its participation in the original proceeding and has therefore applied the 35 per cent global reduction in lieu of a detailed consideration of the specific costs claimed for Brownlee, Circle T Consulting, and Total Fire Solutions. Accordingly, the Commission approves the Town's claim for recovery of costs in the total amount of \$99,742.26, consisting of professional fees and disbursements of \$94,992.63¹¹ and GST of \$4,749.63.

3 Order

13. The Commission approves Application 29678-A001, under sections 21 and 22 of the *Alberta Utilities Commission Act* and Rule 009, and orders as follows:

⁹ See for example, Decision 28325-D01-2024, Proteus Alberta Solar 1 Ltd., Proteus Alberta Solar Projects, June 18, 2024, paragraphs 58-61; Decision 27842-D01-2024, Aira Wind Power Inc., Aira Solar Project and Moose Trail 1049S Substation, March 21, 2024, paragraphs 28-35; Decision 27652-D01-2023, Creekside Solar Inc., Creekside Solar Project, July 14, 2023, paragraphs 131-133; Decision 27486-D01-2023, Foothills Solar GP Inc., Foothills Solar Project, April 20, 2023, paragraphs 23-29.

¹⁰ Exhibit 28643-X0075, AUC letter - Ruling on Town of Killam extension request and hearing dates, paragraph 5.

¹¹ $\$146,142.50 * 0.65 = \$94,992.63$.

- (1) PACE Canada Development LP shall pay intervener costs to the Town of Killam in the total amount of \$99,742.26 within 30 days of this Order. Payment shall be made to Brownlee LLP on behalf of the Town of Killam.

Dated on February 25, 2025.

Alberta Utilities Commission

(original signed by)

Douglas A. Larder, KC
Vice-Chair

(original signed by)

Doug Hawkins
Acting Commission Member