



**SPWC Development GP Inc.  
Willow Ridge Wind Project**

**Costs Award**

**May 30, 2025**

**Alberta Utilities Commission**

Decision 29896-D01-2025

SPWC Development GP Inc.

Willow Ridge Wind Project

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Proceeding 29896

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

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## **1 Introduction**

1. In this decision, the Alberta Utilities Commission (AUC) considers applications by the Municipal District of Willow Creek No. 26 (MD), Stoney Nakoda Nations (Stoney) and the Willow Ridge Action Group (WRAG) for an award of costs for their participation in Proceeding 27837<sup>1</sup> (the original proceeding). For the reasons below, the Commission approves \$18,495.17 in costs for the MD, \$7,245.36 in costs for Stoney and \$88,618.08 in costs for WRAG.

2. The original proceeding was convened by the Commission to consider an application from SPWC Development GP Inc. (SPWC) for approval of a 196-megawatt (MW) wind power plant, a 100-MW battery energy storage system and the Breezy Ridge 1078S Substation. The MD, Stoney and WRAG participated in the proceeding and WRAG submitted its costs claim within the 30-day timeline permitted by Rule 009: *Rules on Local Intervener Costs*. Both the MD's and Stoney's costs applications were filed late, and the Commission granted permission for the MD and Stoney respectively to file late applications. The record for the costs proceeding closed on April 10, 2025, the date it was determined that no information requests were required.

## **2 Municipal District of Willow Creek No. 26's claim**

3. The power plant at issue is sited in the MD. The MD pursued concerns related to water wells, the Alcock Farms Airport (CFM8), lighting, municipal land use bylaw setbacks, protection of agricultural lands, cumulative effects, and the MD's planning authority in relation with the AUC's decision-making authority.

4. The Commission granted the MD full participation rights and costs eligibility in the original proceeding.<sup>2</sup> The MD is eligible to recover costs in accordance with Section 21 of the *Alberta Utilities Commission Act*.

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

Claimant	Hours			Fees	Disbursements	GST	Total
	Preparation	Attendance	Argument				
MD of Willow Creek							
Reynolds Mirth Richards & Farmer LLP	31.40	15.60	5.00	\$17,430.00	\$184.45	\$880.72	\$18,495.17
Total	31.40	15.60	5.00	\$17,430.00	\$184.45	\$880.72	\$18,495.17

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<sup>1</sup> Proceeding 27837, Willow Ridge Wind Project.

<sup>2</sup> Exhibit 27837-X0077, AUC letter – Ruling on standing, paragraphs 14 and 19; and Exhibit 27837-X0333, AUC letter – Ruling on cost claim eligibility for the Municipal District of Willow Creek No. 26.

6. SPWC took no position on the MD's costs claim.<sup>3</sup>

7. The Commission finds that the MD acted responsibly in the original proceeding and contributed to the Commission's understanding of the relevant issues. The Commission is also satisfied that the costs claimed are consistent with the scale of costs in Appendix A of Rule 009. The Commission finds that the costs claimed for Reynolds Mirth Richards & Farmer LLP are reasonable and approves those costs in full.

8. Accordingly, the Commission approves the MD's claim for legal fees in the amount of \$17,430.00, the reasonable disbursement for photocopying of \$184.45 and GST of \$880.72 for a total of \$18,495.17.

### **3 Stoney Nakoda Nations's claim**

9. The Stoney are comprised of the Bearspaw First Nation, Goodstoney First Nation and Chiniki First Nation. Stoney hold rights under Treaty 7 and are Aboriginal peoples of Canada within the meaning of Section 35(1) of the *Constitution Act, 1982*. In the original proceeding, Stoney raised concerns about potential impacts to their asserted rights and interests.

10. The Commission granted the Stoney standing in the original proceeding<sup>4</sup> and the Stoney are eligible to recover costs in accordance with sections 21 and 22 of the *Alberta Utilities Commission Act* and Section 5 of Rule 009.

11. On January 14, 2025, the Commission granted Stoney an advance costs award of \$17,518.35, on the basis that Stoney demonstrated a need for financial assistance to address the issues raised in the original proceeding and determined that some amount of advance funding for costs incurred in preparation for and during the course of the hearing was warranted. The Commission emphasized that the advance funding approved in the ruling may be subject to adjustment when a final costs claim application was made and a costs decision was issued following the completion of the original proceeding.<sup>5</sup>

12. Stoney retained Rae and Company to provide legal advice, and MNP LLP for consultancy support in the original proceeding.

13. The following is a breakdown of the costs claimed by Stoney in its final costs claim application:

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<sup>3</sup> Exhibit 29896-X0021, SPWC Development GP Inc. – Response to Cost Claims.

<sup>4</sup> Exhibit 27837-X0327, AUC letter – Ruling on standing – Stoney Nakoda Nations.

<sup>5</sup> Exhibit 27837-X0334, AUC letter – Ruling on budget and advance funding request.

Claimant	Hours			Fees	Disbursements	GST	Total
	Preparation	Attendance	Argument				
<b>Stoney</b>							
Rae and Company	0.60	0.00	16.30	\$5,284.00	\$15.10	\$0.00	\$5,299.10
MNP LLP	46.75	8.25	17.00	\$16,000.00	\$0.00	\$0.00	\$16,000.00
Stoney Tribal Administration	65.00	12.00	6.00	\$12,450.00	\$818.80	\$0.00	\$13,268.80
<b>Total</b>	112.35	20.25	39.30	\$33,734.00	\$833.90	\$0.00	<b>\$34,567.90</b>
<b>Less advance funding</b>							<b>(\$17,518.35)<sup>6</sup></b>
<b>Net claimed</b>							<b>\$17,049.55</b>

14. SPWC raised the following issues with Stoney’s costs claim in its submission:
- some of the amounts claimed for Rae and Company exceed the scale of costs under Rule 009 and some of the amounts are not eligible for reimbursement under Rule 009; and
  - some of the amounts claimed for MNP LLP exceed the scale of costs under Rule 009 and the activities claimed demonstrate duplication of effort and are not reasonable.
15. Stoney did not respond to SPWC’s comments.
16. The Commission finds that Stoney generally acted responsibly in the original proceeding and contributed to the Commission’s understanding of the relevant issues.
17. However, the Commission is unable to approve the full amount of the costs claimed in respect of the services performed by Rae and Company, MNP LLP and Stoney Tribal Administration for the reasons below.

### Rae and Company

18. Stoney claimed legal fees for Rae and Company in the total amount of \$5,284.00. This amount was comprised of a claim for 10.6 hours at the hourly rate of \$445.00 for a lawyer with more than 12 years experience, and 6.3 hours at the hourly rate of \$90.00 for a legal assistant. However, the scale of costs under Rule 009 allows legal fees to be paid at the maximum hourly rate of \$350.00 and allows for secretarial/support staff fees at the rate of \$45.00 per hour. Because Stoney did not provide any rationale for the Commission to exceed the scale of costs, the Commission approves the hours claimed for Rae and Company at the rates allowed in the scale of costs. As a result, the Commission approves Stoney’s claim for fees for Rae and Company in the total amount of \$3,993.50.<sup>7</sup>

19. Stoney also claimed a disbursement for photocopying (\$15.10) which the Commission finds to be reasonable.

<sup>6</sup> Exhibit 27837-X0334, AUC letter – Ruling on budget and advance funding request. Also, in Exhibit 29896-X0021, PDF page 10, SPWC stated “... on or about February 7, 2025, SPWC provided \$17,518.35 to Stoney to satisfy its obligations pursuant to the Commission’s ruling on Stoney’s advance funding request.”

<sup>7</sup> (10.6 hours \* \$350) + (6.3 hours \* \$45) = \$3,993.50.

20. Accordingly, the Commission approves Stoney's claim for legal fees for Rae and Company in the amount of \$3,993.50 and a disbursement of \$15.10 for a total of \$4,008.60.

## **MNP LLP**

21. Stoney claimed consulting fees for MNP LLP in the total amount of \$16,000. The claimed fees were for a total of 72 hours incurred by seven consultants with varying years of experience.<sup>8</sup> Consultants with more than 12 years of experience claimed a total of 30.25 hours at the hourly rate of \$222.23. As this claim is within the maximum hourly rate allowed in the scale of costs, the associated fees of \$6,722.46 are eligible for cost recovery. Consultants with 5-7 years of experience claimed a total of 40 hours at the hourly rate of \$222.23. As the maximum hourly rate allowed in the scale of costs is \$160.00, and because Stoney did not provide any rationale for why the Commission should exceed the scale, the Commission approves these 40 hours at the rate of \$160.00, resulting in associated fees of \$6,400.00 being eligible for cost recovery. A consultant with 1-4 years of experience claimed a total of 1.75 hours at the hourly rate of \$221.91. As the maximum hourly rate allowed in the scale of costs is \$120.00 and because Stoney did not provide any rationale for why the Commission should exceed the scale, the Commission approves these 1.75 hours at the rate of \$120.00, resulting in associated fees of \$210.00 being eligible for cost recovery. As a result, the Commission finds a total of \$13,332.46 in professional fees for MNP are eligible for cost recovery.<sup>9</sup>

22. The Commission also finds that a global reduction of 25 per cent to the fees eligible for cost recovery is warranted for MNP's claimed costs, considering the following three reasons.

23. First, MNP claimed for 72 hours of activities, conducted by seven consultants. Only two of the consultants, Shauna McGarvey and Megan Ibrahim, performed over 10 hours of work.<sup>10</sup> It is not clear to the Commission why S. McGarvey and M. Ibrahim, who would have been most familiar with the Stoney, their concerns, and the record and issues in the original proceeding, could not reasonably have completed the work performed by the other consultants. The Commission assumes it would take additional time for S. McGarvey and M. Ibrahim to transition consultants onto this matter, and to review the work these consultants produced. Accordingly, based on the costs claim application, the Commission is concerned that the number of consultants resulted in unnecessary duplication of work.

24. Second, one of MNP's roles was to provide advice to and support for the Stoney during the hearing,<sup>11</sup> and MNP acted as the proceeding contact for the Stoney. The Commission considers that MNP's conduct in this regard also led to inefficiencies. The Stoney registered to participate at a late stage of the proceeding, and it was essential for MNP to conduct its role competently, including: registering as a representative of Stoney on eFiling in a timely manner in order to receive proceeding updates; responding to phone calls and emails from AUC staff regarding logistics in a timely manner, which did not occur on several occasions; and ensuring

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<sup>8</sup> Exhibit 29896-X0016, Stoney Nakoda Nations Cost Claim for Proceeding 29896, PDF page 9, Form U2 for MNP LLP.

<sup>9</sup>  $\$6,722.46 + \$6,400.00 + \$210.00 = \$13,332.46$ .

<sup>10</sup> Exhibit 29896-X0016, PDF page 9.

<sup>11</sup> Exhibit 27837-X0332, Stoney Nakoda Nations Advance of Funds Request – Willow Ridge Wind Project.

proceeding deadlines were adhered to. Some of the deadlines missed include information request responses<sup>12</sup> and the deadline for parties to file a witness list and time estimate.<sup>13</sup>

25. Third, the Commission finds that the hours claimed by MNP are excessive considering the Stoney's level of participation in the proceeding and are not justified by the general description of activities in the costs claim. Post-standing ruling, Stoney filed five pages of evidence,<sup>14</sup> and a one-page response to a Commission information request.<sup>15</sup> Two Stoney witnesses appeared at the oral hearing, and Stoney did not question at the oral hearing. In the decision on the original proceeding, the Commission found, given the absence of information about where Stoney members are present on the land and exercising Section 35 rights, that it was unable to make a finding that those rights or uses may be affected by the project or to impose approval conditions that are intended to address such impacts.<sup>16</sup> Accordingly, the level of detail in the costs claim does not demonstrate how MNP reasonable incurred 72 hours of activity over a three week period in relation to supporting the Stoney's participation in the hearing.<sup>17</sup>

26. For these reasons, the Commission applies a 25 per cent reduction to the consulting fees for MNP that are eligible for cost recovery.

27. Accordingly, the Commission approves Stoney's claim for consulting fees for MNP LLP in the amount of \$9,999.35.<sup>18</sup>

### **Stoney Tribal Administration**

28. The Stoney Consultation Office works with Stoney Tribal Administration, which represents the Stoney. Stoney claimed fees for Stoney Consultation Office staff members to: meet with their consultants and lawyers; travel to the project area; prepare written evidence; prepare oral evidence; and prepare, edit, and finalize argument.

29. The total amount claimed by Stoney Tribal Administration was \$13,268.80. This amount was comprised of \$12,450.00 in fees and \$818.80 in disbursements. The claim for \$12,450.00 in fees represents a total 83 hours. Of these 83 hours, 57 hours were for substantive work and 26 hours were for travel time.<sup>19</sup> The Stoney Tribunal Administration did not follow the scale of costs in all aspects. For example, it claimed a blended rate of \$150.00 per hour for Stoney Consultation Office employees, which is below the hourly rate for consultants with 5-7 years of experience. Despite this, the Commission finds the rate claimed is reasonable in the circumstances, considering that the hourly rate is on the lower end, and that the costs claimed for the substantive work performed by Stoney Consultation Office employees is consistent with the

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<sup>12</sup> On December 6, 2024, the Commission asked for additional information from the Stoney by December 10, 2024 (Exhibit 27837-X0303). The Stoney's response, Exhibit 27837-X0313, was filed December 20, 2024.

<sup>13</sup> On January 20, 2025, the Commission requested that parties provide this information by January 17, 2025 (Exhibit 27837-X0364). MNP filed the Stoney's response, Exhibit 27837-X0366, on January 21, 2025.

<sup>14</sup> Exhibit 27837-X0372, Stoney, Written Evidence of Larry Daniels Jr. and Exhibit 27837-X0373, Stoney, Written Evidence of William Snow.

<sup>15</sup> Exhibit 27837-X0408, Stoney, SNN Response to the AUC's Information Request.

<sup>16</sup> Decision 27837-D01-2025: SPWC Development GP Inc. Willow Ridge Wind Project, Proceeding 27837, May 5, 2025, paragraph 163.

<sup>17</sup> MNP invoice dates for consultant work incurred start January 10 and end January 31, 2025. Exhibit 29896-X0016, PDF pages 16-17.

<sup>18</sup>  $\$13,332.46 * 0.75 = \$9,999.35$ .

<sup>19</sup> Exhibit 29896-X0016, PDF pages 18-20.



budgets filed by Stoney as well as the framework established in Rule 009. Accordingly, the Commission finds that the hours associated with the substantive activities are reasonable and approves the associated fees in the total amount of \$8,550.00.<sup>20</sup>

30. However, the Commission finds it reasonable for the travel time and the disbursements claimed, which are administrative in nature, to follow the limits set in the scale of costs under Rule 009 in the circumstances. The rate claimed for travel time was \$150.00 per hour; however, under the scale of costs, the Commission allows professionals only half of their hourly rate for travel time. Accordingly, given a lack of rationale regarding why the travel rate should be increased, the Commission approves half the claimed rate for travel time, which is \$75.00 per hour. Accordingly, the Commission awards 26 hours of travel time at the rate of \$75.00 for a total of \$1,950.00. In total, the Commission awards \$10,500.00 in fees<sup>21</sup> for Stoney Tribal Administration.

31. The Stoney Tribal Administration claimed a total of \$818.80 for mileage, including \$93.84 for Larry Daniels to travel to attend the hearing at the MNP office and \$161.92 for a site visit to the project area.<sup>22</sup> The remainder of the claims were for mileage for pre-hearing meetings. Because the scale of costs allows for mileage to attend a hearing, and because the Commission deems the visit to the project site to be reasonable in the circumstances, the Commission approves mileage in the total amount of \$255.76.

32. Accordingly, the Commission approves Stoney's claim for consulting fees for the Stoney Tribal Administration in the amount of \$10,500.00 and a disbursement of \$255.76 for a total of \$10,755.76.

33. For the reasons provided above, the Commission approves Stoney's claim for recovery of costs in the total amount of \$24,763.71, consisting of legal fees of \$3,993.50, consulting fees of \$20,499.35 and disbursements of \$270.86. The approved amount, less the advance funding amount of \$17,518.35 awarded in Exhibit 27837-X0334,<sup>23</sup> results in a balance payable of \$7,245.36.

#### **4 Willow Ridge Action Group's claim**

34. WRAG consisted of over 30 persons, the majority of whom own or occupy land in the project area. The group submitted evidence and argument on topics including aviation impacts, agricultural impacts, environmental impacts, noise impacts, glare impacts, reclamation, and impacts to water wells.

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<sup>20</sup> 57 hours \* \$150 = \$8,550.00.

<sup>21</sup> \$8,550.00 + \$1,950.00 = \$10,500.00.

<sup>22</sup> Exhibit 29896-X0016, PDF page 20, includes "January 20 site visit" and "January 28 hearing attendance at MNP office."

<sup>23</sup> Exhibit 27837-X0334, paragraph 8.

35. The Commission granted WRAG and many of its members standing in the original proceeding<sup>24</sup> and the group is eligible to recover costs in accordance with sections 21 and 22 of the *Alberta Utilities Commission Act* and Section 5 of Rule 009.

36. The following is a breakdown of the costs claimed by WRAG:<sup>25</sup>

Claimant	Hours			Fees	Disbursements	GST	Total
	Preparation	Attendance	Argument				
<b>WRAG</b>							
My Landman Group, Inc.	288.75	25.00	12.50	\$87,547.50	\$5,718.64	\$4,661.32	\$97,927.46
Exponent, Inc.	29.10	7.50	0.00	\$30,474.60	\$0.00	\$0.00	\$30,474.60
Gerard Fetaz	0.00	15.00	0.00	\$1,800.00	\$0.00	\$0.00	\$1,800.00
Intervener honoraria and disbursements	0.00	0.00	0.00	\$3,400.00	\$1,008.67	\$14.08	\$4,424.45
<b>Total</b>	<b>317.85</b>	<b>47.50</b>	<b>12.50</b>	<b>\$123,222.10</b>	<b>\$6,727.31</b>	<b>\$4,675.40</b>	<b>\$134,626.51</b>

37. SPWC raised the following issues with WRAG's costs claim in its submission:

- a. Daryl Bennett's claims for professional fees and disbursements should be globally reduced to account for: his conduct during the hearing; submitting evidence not previously on the record and mischaracterizing evidence; claiming unreasonable amounts of time; and claiming ineligible costs.
- b. Dennis Moore's, of Exponent, Inc., claim should be globally reduced because D. Moore is not a turbulence expert, the number of hours spent is disproportionately high, and the claim does not comply with Rule 009.
- c. Gerard Fetaz's claim should be denied as he is not an aviation expert nor an independent witness, and he has never used the Alcock aerodrome as a pilot.
- d. Hearing attendance honoraria should only be granted to those persons with standing and should be applied consistent with the requirements set out in Rule 009.

38. WRAG responded to SPWC's comments as follows:

- a. D. Bennett is not a lawyer and not bound by legal rules of conduct. Rather, he is a consultant and thus paid at a lower rate than a lawyer for services provided to intervener clients. WRAG submitted that D. Bennett's questions were legitimate; that he was entitled to file evidence, including academic literature and other AUC proceeding evidence; and that there was only one occurrence of SPWC criticizing D. Bennett's conduct during the proceeding.
- b. WRAG could not find a suitable downwind turbulence expert in Canada, which led them to retain D. Moore from Exponent, which operates out of Texas.

<sup>24</sup> Exhibit 27837-X0077, AUC letter – Ruling on standing; and Exhibit 27837-X0082, AUC letter – Supplementary ruling on standing and outstanding request of Willow Ridge Action Group.

<sup>25</sup> As reflected in the revised costs claim filed in Exhibit 29896-X0008, Revised WRAG cost claim for Willow Ridge.

D. Moore has specific expertise in safety and crash evaluations and is therefore qualified to speak on the safety of pilots flying at the Alcock aerodrome and SPWC's curtailment plan. D. Moore had to review prior relevant Commission proceedings in order to understand prior Commission findings on aviation impacts and place them in context. WRAG noted that the Commission has previously found that D. Moore should be compensated at a higher level than found in the scale of costs.

- c. G. Fetaz brought relevant information to the Commission because he was the only person able to testify about his experience flying around curtailed turbines. SWPC and the AUC asked G. Fetaz questions. G. Fetaz should be compensated for his testimony and evidence.
- d. While G. Porter did not have standing, he was a WRAG member. G. Porter spent significant time at the hearing testifying about his personal flying experience at the Alcock aerodrome and answered a number of questions in information request responses and at the oral hearing. He should be compensated for his time.

39. The Commission finds that WRAG generally 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.

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

40. WRAG claimed a \$1,000.00 honorarium for Leslie-Anne Hornberger for forming the group. WRAG stated that L. Hornberger led the group formation process, arranged intervener meetings, booked meeting halls and helped gather evidence and track the group's membership. While recognizing that the scale of costs allows for \$500.00 for this type of honorarium, WRAG requested a higher amount, as the original proceeding "has been going on for more than 2 years and involved a number of meetings with interveners."<sup>26</sup> The scale of costs allows for a group formation honorarium of up to \$500.00 and indicates that "In exceptional cases when the necessary preparation time is substantial, honoraria in excess of \$500 may be claimed."<sup>27</sup> WRAG indicated that there were seven group meetings, including gathering as a group to attend the virtual hearing on January 28, 2025.<sup>28</sup> The Commission finds that, given the circumstances of the original proceeding, a \$750.00 honorarium for forming the group is approved.

41. WRAG also claimed a \$300.00 attendance honorarium for each of the following members: L. Hornberger, Fern Marsden, Henri Soetendaal, Janene Van Driesten, Leonard Bron, Adrian Jansen, George Porter and Alex Van Herk. As G. Porter and A. Van Herk were denied standing,<sup>29</sup> their claims for honoraria are denied. The remaining six claims for attendance honoraria are approved. In total, the Commission approves \$1,800.00 in attendance honoraria.

42. WRAG also claimed disbursements in the total amount of \$1,008.67 for meeting room rentals (\$800.00), photocopying (\$74.50) and food for meetings (\$134.17). The Commission

<sup>26</sup> Exhibit 29896-X0008, Revised WRAG cost claim for Willow Ridge, PDF page10.

<sup>27</sup> Rule 009, Appendix A, Section 2 a).

<sup>28</sup> Exhibit 29896-X0008, PDF pages 43-49.

<sup>29</sup> Exhibit 27837-X0077, AUC letter – Ruling on standing, paragraphs 11-12 and Schedule B.

finds the meeting room rentals and photocopying to be reasonable in the circumstances of the original proceeding and approves those amounts plus the associated GST on those amounts of \$13.73. Since the scale of costs only allows for meals during an oral hearing and does not allow for tips to be claimed, the Commission approves a total of \$80.35 for food for January 28, 2025.<sup>30</sup> In total, the Commission approves disbursements for WRAG in the total amount of \$954.85 and associated GST of \$13.73.

43. In total, the Commission approves intervener honoraria of \$2,550.00, intervener disbursements of \$954.85 and GST of \$13.73.

44. Next, the Commission will consider the costs claimed in respect of the services performed by My Landman Group, Exponent and G. Fetaz.

### **My Landman Group, Inc.**

45. D. Bennett represented WRAG in the original proceeding. He advised that his activities included: inspecting the wind project area, reviewing SPWC's evidence, compiling information requests, assisting in compiling WRAG individual member's evidence submissions, compiling the WRAG master evidence submission, obtaining an expert to testify concerning downwind turbulence and aircraft safety, assisting in responding to the AUC's and SPWC's information requests, participated in the hearing, and presenting WRAG's argument.<sup>31</sup>

46. The Commission finds that a 40 per cent global reduction to D. Bennett's costs is warranted in the circumstances.

47. First, D. Bennett acted improperly in his role as a representative in providing evidence on behalf of WRAG. The Commission has previously found this to be improper conduct for an agent, as it creates a material unfairness in the original proceeding.<sup>32</sup> This is because D. Bennett is not a witness for WRAG and there is no way for parties to test the evidence he provides in an oral hearing.

48. More specifically, D. Bennett is not an independent expert witness and thus not entitled to give opinion evidence. The Commission understands that D. Bennett authored a substantial amount of evidence on the environment, which is a complex subject matter that the Commission generally requires opinion evidence from independent expert witnesses. In Section 4.7.1 of Decision 27837-D01-2025,<sup>33</sup> the Commission identified the evidence on environmental effects that it understood D. Bennett had authored and found it often incorrect and mostly unhelpful, adding little to the Commission's consideration of the application in the original proceeding. The Commission also found it was improper given his role as a representative of WRAG, and largely beyond his training, knowledge and experience.

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<sup>30</sup> Exhibit 29896-X0008, PDF page 51: the three receipts for January 28, 2025 (after deducting the \$5.00 tip), add up to \$80.35, inclusive of GST.

<sup>31</sup> Exhibit 29896-X0008, PDF page 4.

<sup>32</sup> Decision 28980-D01-2024: Proteus Alberta Solar 1 Ltd. Proteus Alberta Solar Projects Costs Award, Proceeding 28980, June 26, 2024, paragraph 9.

<sup>33</sup> Decision 27837-D01-2025: SPWC Development GP Inc. Willow Ridge Wind Project, Proceeding 27837, May 5, 2025.

49. As another example, D. Bennett filed a number of articles on technical matters, which had no witness to speak to them.<sup>34</sup> Because no witness was presented to confirm the truth or accuracy of the information in these articles, or to otherwise answer questions about these articles, it significantly limited the usefulness of this evidence to the Commission. At the same time, this practice resulted in additional time spent for parties and the Commission to review these articles.

50. Related to these concerns, the Commission finds the amount of time claimed by D. Bennett for drafting information requests and evidence to be excessive, and likely due to the fact that no independent expert witnesses were retained to assist in assessing SPWC's evidence. Doing so would have helped WRAG focus on the key issues, and to identify the key areas and facts for testing and clarification.

51. Third, D. Bennett made improper legal arguments in evidence. As one example, in WRAG's master evidence submission, D. Bennett provided submissions on paramountcy of municipal and AUC jurisdiction, the paramountcy of the MD's land use bylaw,<sup>35</sup> and the paramountcy of the MD's jurisdiction over reclamation security.<sup>36</sup> While the provision of legal arguments in evidence in and of itself is a concern to the Commission, the Commission notes that the MD was a party in the proceeding and had the opportunity to raise its concerns regarding the project and its views regarding its authority relative to the Commission's, which it did. In this respect, the Commission did not find it beneficial to receive evidence and argument from D. Bennett on municipal matters given the MD was present to provide its own evidence and argument.

52. Fourth, D. Bennett made arguments regarding prior Commission decisions regarding aviation and well water, as some examples, which were not accurate. The Commission corrected D. Bennett's submissions in Decision 27837-D01-2025, at paragraphs 50, 51, and 189. While D. Bennett is not a lawyer, the Commission still expects representatives to describe Commission decisions accurately and with proper context. To do so otherwise, can mislead parties and the Commission in a hearing, and results in additional and unnecessary work for the Commission to take time to correct.

53. For these reasons, the Commission applies a 40 per cent reduction to the consulting fees claimed for My Landman Group.

54. WRAG also claimed disbursements for My Landman Group for transcripts (\$5,414.50), mileage (\$207.00), land title searches (\$57.14), and a fee for transferring funds to Exponent (\$40.00). The Commission finds the disbursements to be reasonable and approves them. Accordingly, the Commission approves WRAG's claim for consulting fees for My Landman Group in the amount of \$52,528.50,<sup>37</sup> disbursements of \$5,718.64 and GST of \$2,912.36 for a total of \$61,159.50.

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<sup>34</sup> See, for example, Exhibit 27837-X0182 through Exhibit 27837-X0185, inclusive; Exhibit 27837-X0186, Exhibit 27837-X0188, Exhibit 27837-X0189, Exhibit 27837-X0191, Exhibit 27837-X0192 and Exhibit 27837-X0193.

<sup>35</sup> Exhibit 27837-X0213, WRAG, 27837-X0178 Master Final Submission of WRAG Redacted as per ruling in Exhibit 27837-X0211, paragraphs 19-27.

<sup>36</sup> Exhibit 27837-X0213, paragraph 27.

<sup>37</sup>  $\$87,547.50 * 0.60 = \$52,528.50$ .

## Exponent, Inc.

55. WRAG claimed professional fees for D. Moore and Adam Dershowitz of Exponent in the total amount of \$30,474.60. WRAG stated that D. Moore and A. Dershowitz have 29 and 27 years of experience, respectively. The fees claimed represent a total of 26.7 hours for D. Moore and 9.9 hours for A. Dershowitz,<sup>38</sup> for work performed from November 11, 2024, to January 28, 2025, inclusive.<sup>39</sup> WRAG also stated it would be appropriate for the Commission to deviate from the published Rule 009 rates and to allow these professional fees at the invoiced amounts.<sup>40</sup> By way of explanation, WRAG relied on the Commission's findings in a previous AUC proceeding where D. Moore and A. Dershowitz participated and were awarded costs at the above-scale hourly rates of \$700.00 and \$500.00, respectively.<sup>41</sup>

56. The applicable maximum hourly rate for consultants, analysts and experts in the scale of costs in Rule 009 is \$270.00. The Commission observes that the hourly rates claimed for D. Moore and A. Dershowitz are well above the maximum hourly rate allowed in the scale of costs: for D. Moore the claimed rate is estimated to be more than three times higher than the maximum scale rate, and for A. Dershowitz the claimed rate is estimated to be more than double the scale rate.<sup>42</sup>

57. Rule 009 stipulates that "A local intervener may only claim costs in accordance with the scale of costs set out in Appendix A"<sup>43</sup> and "where an eligible participant can advance persuasive argument that the 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."<sup>44</sup> WRAG did not put forward argument on why the scale was inadequate given the complexity and uniqueness of the original proceeding. It simply pointed to the Commission's findings in a past AUC proceeding.

58. The Commission has previously awarded costs in excess of the scale of costs on rare occasions where an independent expert's high degree of expertise has greatly contributed to the Commission's understanding of the issues. The Commission understands that WRAG was unable to find a suitable turbulence expert within Canada, and notes that SPWC's turbulence expert is also based outside of Canada. As the Commission noted in the decision for the original proceeding, the study of downwind turbulence on small aircraft is a novel field. As such, the Commission is cognizant that it may not always be possible to find suitable experts within Canada to speak to such issues. This is one of the reasons why the Commission retains some flexibility to grant costs above its scale of costs.

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<sup>38</sup> Exhibit 29896-X0008, PDF page 19: The fees were claimed in Canadian dollar rates of \$876.20 (2024) and \$962.39 (2025) for D. Moore; and \$617.65 for A. Dershowitz.

<sup>39</sup> Exhibit 29896-X0008, PDF pages 37-40.

<sup>40</sup> Exhibit 29896-X0008, PDF page 8.

<sup>41</sup> Exhibit 29896-X0008, PDF pages 8-9, refers to Decision 29015-D01-2024: Capital Power Generation Services Inc. Consideration of Halkirk 2 Wind Power Project Final Project Update #2 – Turbines 10, 18 and 27 Costs Award, Proceeding 29015, July 17, 2024.

<sup>42</sup> WRAG claimed fees for D. Moore at the rates of \$876.20 and \$962.39 (a simple average of these rates is \$919.30) and comparing the average rate to the scale rate:  $\$919.30/\$270.00 = 3.4$  times higher; and for A. Dershowitz at  $\$617.65/\$270.00 = 2.3$  times higher.

<sup>43</sup> Rule 009, Section 5.2.

<sup>44</sup> Rule 009, Appendix A.

59. However, the Commission is hesitant to approve Exponent's costs in full given the lack of explanation provided by WRAG on why the current scale is inadequate, especially when Exponent's evidence was not materially different from the evidence it submitted in the Halkirk 2 proceeding.<sup>45</sup> Further, the Commission emphasizes that its costs recovery regime does not provide full indemnity for participation in AUC proceedings.

60. Given all of the above factors, the Commission finds it reasonable in the circumstances of the original proceeding to award D. Moore's hours at the rate of \$700.00 and A. Dershowitz's hours at the rate of \$500.00. As a result, the Commission approves \$23,640.00 in professional fees for Exponent.

61. In future proceedings, where local interveners are considering engaging experts with rates above the scale of costs, the Commission encourages parties to file a motion in the original proceeding to request the Commission's consideration and guidance on the above-scale rates.

### **Gerard Fetaz**

62. G. Fetaz appeared as a witness for WRAG.<sup>46</sup> During the hearing, G. Fetaz provided evidence from his point of view as an experienced pilot. WRAG acknowledged that they did not put him forward as an expert or an independent witness and stated he was not part of the WRAG intervener group.<sup>47</sup> WRAG claimed a total of \$1,800.00 in consulting fees for G. Fetaz, at the hourly rate of \$120.00.

63. The Commission observes that G. Fetaz was not presented as an independent expert and did not have direct experience flying into CFM8. Neither did G. Fetaz have standing in the original proceeding. Nevertheless, the Commission found G. Fetaz's evidence helpful as it provided a different perspective on the potential hazards of flying near a turbine. Accordingly, the Commission approves a fee of \$300.00 for G. Fetaz for his participation in the hearing.

64. For the reasons provided above, the Commission approves WRAG's claim for recovery of costs in the total amount of \$88,618.08, consisting of consulting fees of \$76,468.50, intervener honoraria of \$2,550.00, disbursements of \$6,673.49 and GST of \$2,926.09.

## **5 Order**

65. The Commission approves applications 29896-A001, 29896-A002 and 29896-A003, under sections 21 and 22 of the *Alberta Utilities Commission Act* and Rule 009, and orders as follows:

- (1) SPWC Development GP Inc. shall pay intervener costs to the Municipal District of Willow Creek No. 26 in the total amount of \$18,495.17 within 30 days of this Order. Payment shall be made to Reynolds Mirth Richards & Farmer LLP on behalf of the Municipal District of Willow Creek No. 26.

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<sup>45</sup> Proceeding 29015, Consideration of Halkirk 2 Wind Power Project Final Project Update #2 – Turbines 10, 18 and 27.

<sup>46</sup> Transcript Vol\_2\_2025-01-28, page 265.

<sup>47</sup> Exhibit 29896-X0008, PDF page 12.

- (2) SPWC Development GP Inc. shall pay intervener costs to Stoney Nakoda Nations in the total amount of \$7,245.36 within 30 days of this Order. Payment shall be made to Rae and Company on behalf of the Stoney Nakoda Nations.
- (3) SPWC Development GP Inc. shall pay intervener costs to Willow Ridge Action Group in the total amount of \$88,618.08 within 30 days of this Order. Payment shall be made to My Landman Group, Inc. on behalf of the Willow Ridge Action Group.

Dated on May 30, 2025.

**Alberta Utilities Commission**

*(original signed by)*

Douglas A. Larder, KC  
Vice-Chair

*(original signed by)*

Doug Hawkins  
Acting Commission Member