

Rural Alberta Concerned Communities Group (RACCG)
Caroline, Alberta
April 14, 2025
Email: rjb@russellbarnett.ca
Phone: 403.888.6346

To:
Alberta Utilities Commission
Email: info@auc.ab.ca
Attn: Matthew Parent, Commission Counsel
Phone: 403-592-4457
Email: matthew.parent@auc.ab.ca
Honorable Nathan Neudorf: au.minister@gov.ab.ca
Honorable Jason Nixon: Rimbey.RockyMountainHouse.Sundre@assembly.ab.ca
Premier Danielle Smith: premier@gov.ab.ca

Subject: Clarification of Review Application – Proceeding 29924, Decision 28295-D01-2025 (Caroline Solar Farm)

Dear Mr. Parent,

Thank you for your letter dated April 7, 2025, regarding our review application for Decision 28295-D01-2025, filed March 24, 2025, under Proceeding 29924. On behalf of the Rural Alberta Concerned Communities Group (RACCG), representing 302 registered members (and growing), I provide this clarification per AUC Rule 016, Sections 4 and 5, identifying specific grounds for review, detailing errors of fact and mixed fact and law, and addressing prejudice to our community. This submission fits within the 15-page double-spaced limit and aligns with Clearwater County's and Shauna Fleshman's concerns where applicable.

1. FACTS RELEVANT TO THE APPLICATION (RULE 016, SECTION 4(1)(B))

On February 28, 2025, the AUC approved PACE Bang Energy LP's 14.67-megawatt Caroline Solar Farm on 57 acres of privately owned land zoned "Reserved for Future Residential Development" (Decision, point 20), despite 2.5 years of opposition from RACCG, including five days of court proceedings and community resistance (point 6). The site, now in the hamlet of Caroline post-amalgamation with Clearwater County on January 1, 2025 (point 5, footnote 3), is 21 meters from residences (point 22) and near a park. The decision dismisses municipal opposition (point 1), overrides outdated bylaws (points 15-20), accepts a reclamation plan starting in Year 2 (points 88-92), and relies on an absurd sheep grazing plan for agrivoltaics (point 78), conflicting with UCP Policy Guidance (March 1, 2024) on reclamation, municipal input, and agricultural land protection.

2. HOW OUR RIGHTS ARE ADVERSELY AFFECTED (RULE 016, SECTION 4(1)(C))

The decision impairs RACCG members' rights to enjoy residential properties, preserve community character, and rely on municipal land use authority. Proximity (21 meters) risks visual blight, noise, and property value loss (points 22, 86), while the override of bylaws (points 15-20) negates our democratic voice. Delayed reclamation security (point 88) and an unfeasible sheep plan (point 78) threaten agricultural land and taxpayer liability, violating UCP mandates.

3. GROUNDS FOR REVIEW (RULE 016, SECTION 4(1)(D), SECTION 5(1))

We assert four grounds under Section 5(1):

Ground 1: Palpable and Overriding Error of Fact (Section 5(1)(a))

Error: The AUC's claim that "the Village of Caroline did not oppose the project" and Clearwater County acquiesced (Decision, points 1, 18) is a palpable and overriding error.

Details: Over 2.5 years, RACCG (118 members at hearing, now 302) fought the project via court proceedings and meetings (point 6). The Village's 2018 approval lacked resident consent (March 24 letter, page 2), and post-amalgamation, Clearwater County's SIP and council resolution (April 7 letter, para. 23) confirm opposition. The AUC ignored this, relying on PACE's biased PIP (point 13).

Impact: This obvious error skewed the public interest finding (Section 17, AUCA), justifying approval despite overwhelming resistance.

Ground 2: Error of Mixed Fact and Law (Section 5(1)(a))

Error: The AUC misapplied the public interest test (Section 17, AUCA) by finding no conflict with municipal plans lacking solar-specific rules (points 15-20).

Legal Test: The test requires balancing social, economic, and environmental effects, respecting municipal input and UCP Policy Guidance (March 1, 2024) on land use compatibility.

Facts at Issue: The LUB zones the site for residential use (point 17), and the MDP/IDP prioritize residential/agricultural growth (point 19), not industrial solar. The AUC claimed "discretionary uses" and "contemplated" alternative energy justify approval (point 19), despite no solar intent in these decades-old plans.

How Erred: The AUC palpably misread the bylaws' intent (obvious error) and overrode municipal authority (impacting result), violating UCP mandates on agricultural land and viewscales.

Ground 3: Changed Circumstances Material to the Decision (Section 5(1)(c))

Circumstance: The Village's amalgamation into Clearwater County on January 1, 2025, post-hearing (November 2024), shifted municipal jurisdiction (point 5, footnote 3).

Details: During the hearing, Clearwater County's input was informal (April 7 letter, para. 24). Post-amalgamation, it formally opposes via SIP and resolution (para. 23), a stance unavailable earlier. The decision's reliance on Village non-opposition (point 1) is outdated.

Impact: This material change undermines the public interest finding, as UCP Policy Guidance mandates municipal participation rights, necessitating reassessment.

Ground 4: Error of Mixed Fact and Law – Reclamation Security (Section 5(1)(a))

Error: The AUC erred in approving a reclamation plan with a Year 2 letter of credit (point 88), violating the UCP mandate for upfront security (UCP Policy Guidance, March 1, 2024).

Legal Test: Section 17 (AUCA) requires economic and environmental public interest, aligned with UCP policy mandating reclamation security before construction (BLG, September 3, 2024, pages 2-3).

Facts at Issue: PACE's plan delays security to Year 2 (point 88), with a net cost of \$688,851 after 58% salvage value (point 89). An Alberta-numbered company both estimates costs and posts the bond (points 89-91), a conflict of interest. The AUC noted a forthcoming regime (point 90) but approved this plan regardless.

How Erred: The AUC palpably ignored UCP policy (obvious error) and overrode it by accepting delayed security and a conflicted estimate (impacting result), risking taxpayer liability and contradicting the Conservation and Reclamation Directive (July 2019).

4. SPECIFIC ERRORS IDENTIFIED (RULE 016, SECTION 4(1)(E)-(F))

- Error of Fact (Ground 1): Misstated municipal opposition (point 1).
- Error of Mixed Fact and Law (Ground 2): Misapplied public interest to bylaws (points 15-20).
- Error of Mixed Fact and Law (Ground 4): Approved reclamation violating UCP mandate (points 88-92).

5. PREJUDICE AND REMEDY SOUGHT (RULE 016, SECTION 4(1)(G))

Prejudice: The decision imposes an industrial project 21 meters from homes (point 22), risking property devaluation (point 86) and scenic loss, while dismissing our opposition (point 1).

Delayed reclamation (point 88) and an absurd sheep plan—lacking predator control or feasibility (point 78)—threaten land and taxpayers, violating UCP mandates on reclamation, agriculture, and municipal input.

Remedy: Rescind the approval or hold a hearing to reassess public interest, incorporating Clearwater County's stance, updated bylaws, and upfront reclamation security per UCP policy.

Additional Absurdity: Sheep and Wildlife Management

The decision's reliance on PACE's vague sheep grazing plan (point 78) exemplifies its flaws.

PACE claims sheep will manage vegetation, yet offers no enforceable plan for predator control (e.g., coyotes), sheep health, or logistics, relying on the landowner's "best practices" despite "uncertainties" (point 78). This absurdity—profit-driven PACE overseeing sheep—contradicts UCP's "agriculture first" mandate, risking farmland without oversight, further eroding public interest.

Conclusion

These palpable errors and changed circumstances, including the UCP mandate violation on reclamation, warrant review. We align with Clearwater County's SIP and SIP filers' concerns. Please confirm receipt at 403.888.6346 or rjb@russellbarnett.ca.

Sincerely,
Russell Barnett, CPA
On behalf of RACCG