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## AECL to pay \$2.8M

Lepreau | Local company no longer in operation A1

*Don MacPherson*

The provincial government is finally going to see some cash from the federal agency that's responsible for the oft-delayed retrofit of the Point Lepreau nuclear power plant, even if it's indirectly.

A judge has approved a settlement offer made by Atomic Energy of Canada Ltd. (AECL) to the trustee that's handling the financial affairs of the now-defunct Precision Nuclear Inc. (PNI).

AECL had hired Precision Nuclear Inc. to do work related to the refurbishment of the Lepreau power-generating facility, but a contract dispute arose.

AECL recently made an offer to Precision's trustee for \$2.8 million to settle the matter. That money will go to Precision Nuclear Inc.'s two secured creditors: the Province of New Brunswick and the Business Development Bank of Canada.

The settlement offer had been opposed by unsecured creditors and by David Rioux, Precision's founder.

However, in a decision issued last week, Court of Queen's Bench Justice Paulette Garnett said the trustee's decision to accept the offer was the right financial move.

That means the province and the Business Development Bank of Canada are going to split the settlement offer.

"The trustee says that a lawsuit between AECL and PNI would have to result in an award to the latter of at least \$7 million (excluding costs) before any of the other creditors would be entitled to share in the proceeds and such a lawsuit would be both risky and costly," the judge wrote in her Jan. 20 decision.

"I find that the trustee has examined all of the material carefully and in good faith and its decision to accept the offer made by AECL is reasonable."

In her decision, Garnett noted that Rioux's opposition to accepting the AECL offer was due to the potential for a larger award as a result of the dispute.

"Mr. Rioux quarrels with the figures used by the trustee and says that the trustee has not considered his arguments and assertions. In earlier reports to the court, previous to PNI's bankruptcy, the trustee carefully analyzed Mr. Rioux's assertions as to what amounts were owed to the companies under the two AECL contracts and came to the conclusion that Rioux was overly optimistic, if not, unrealistic," she wrote.

"In short, the trustee knows what Mr. Rioux believes and the basis on which he holds these beliefs but rejects many of his assertions. I find that the trustee has not ignored Mr. Rioux's concerns and interests in assessing the settlement offer by AECL."

What the province's share of the \$2.8-million settlement will be couldn't be determined before press time Tuesday, and provincial officials couldn't be reached for comment Tuesday afternoon.

The province has been after AECL for years to pay up as a result of its handling of the Lepreau project, though not for anything having to do with AECL's dispute with Precision Nuclear Inc.

The New Brunswick government contracted the federal government agency to handle the refurbishment project, which is now three years behind schedule and more than \$1 billion over budget.

The province contends that the delays are costing it \$1 million a day to buy power to replace the power that would have been generated by Lepreau.

The beef over the cost of delays has been an ongoing point of contention between the provincial government and Ottawa.

The Tory government has pledged to get AECL and Ottawa to pay up, but Fredericton MP and National Revenue Minister Keith Ashfield has stated the feds aren't going to pay for replacement power.

"We're already picking up huge cost overruns above and beyond the agreement, but we won't pay for replacement power. That was not part of the agreement," Ashfield said earlier this month.

Provincial Energy Minister Craig Leonard has stated the province is determined and undeterred despite comments from federal officials.

"We are going to deliver for the people of New Brunswick, no matter what," Leonard said at the time.

The previous Liberal government led by Shawn Graham also butted heads with Ottawa over delays attributed to AECL and the associated costs.